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Supreme Court, U.S.
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No. -

In the
Supreme Court of the United States.

OCTOBER TERM, 1985

JOHN DEMJANJUK,
PETITIONER,

v.

THE UNITED STATES OF AMERICA,
RESPONDENT.

Petition for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit.

— APPENDIX —

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Buffalo, New York 14203,
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NOT FOR PUBLICATION

FILED
JUNE 28, 1985
JOHN P. HEHMAN, Clerk

No. 84-3106
No. 85-3212

United States Court of Appeals For the Sixth Circuit

UNITED STATES OF AMERICA,
PLAINTIFF-APPELLEE,

v.

JOHN DEMJANJUK, a/k/a
IWAN DEMJANJUK, a/k/a/
IVAN DEMJANJUK,
DEFENDANT-APPELLANT.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

Sixth Circuit Rule 24 limits citation to specific situations. Please see Rule 24 before citing in a proceeding in a court in the Sixth Circuit. If cited, a copy must be served on other parties and the Court.

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BEFORE: KENNEDY and MILBURN, Circuit Judges; and
BERTELSMAN, District Judge

PER CURIAM. Defendant appeals the orders of the district court denying his motions to vacate a prior judgment revoking his certificate of naturalization. Defendant argues that his motions should have been granted under Fed. R. Civ. P. 60(b) because (1) evidence used at the trial was fraudulent, and (2) witnesses called by the government in its case-in-chief have since recanted their testimony. For the reasons that follow, we affirm.

The district court judgment revoking defendant's certificate of naturalization was entered on June 23, 1981, after a five-week trial. That judgment which defendant asked the district court and this court to vacate was affirmed by this court and certiorari was denied by the Supreme Court. *United States v. Demjanjuk*, 518 F. Supp. 1362 (N.D. Ohio 1981), *aff'd*, 680 F.2d 32 (6th Cir. 1982), *cert. denied*, 459 U.S. 1036, 103 S. Ct. 447 (1982).

The 1981 denaturalization judgment was based on the district court's finding under a "clear and convincing" standard that defendant had procured his citizenship by willful misrepresentations of material facts regarding the nature of his wartime activities in his application for a visa under the Displaced Persons Act of 1948. The government's evidence at trial revealed that although defendant's visa application included the representation that he was a farmer and harbor worker during World War II, he willfully concealed his service with the Nazi SS. Evidence also revealed that as a soldier in the German SS, defendant trained at the Trawniki SS Training Camp and later worked as a guard, placing prisoners in a gas chamber and, in fact, operating the machinery which gassed Jewish prisoners at the Nazi extermination camp at Treblinka, Poland.

During the original trial, the district court considered the testimony of fourteen (14) witnesses and had approximately thirty (30) exhibits before it. However, since the evidence presented at the original trial and the district court's findings of fact are set out at some length in the district court's original opinion, *United States v. Demjanjuk*, 518 F. Supp. 1362, it will be very briefly summarized here. With regard to defendant's presence in the SS training camp, the government introduced photographic copies of his Trawniki identification card. This identification card was kept in an archive by the U.S.S.R. but was also made available for inspection during trial. Although defendant contested the authenticity of the card, "at no time during the entire course of the trial was *any* evidence introduced to substantiate [his position]." *Demjanjuk*, 518 F. Supp. at 1366. On the other hand, the government's evidence of authenticity was extensive. The government, for example, presented testimony from Henrich Shaefer, the paymaster of Trawniki, that he had been issued such an ID card, as were all persons training at Trawniki, and, furthermore, that the card at

issue was authentic. Similarly, an expert forensic document examiner, who conducted tests on both the copies and the original, testified that the two signatures appearing on the card were those of the commandant of Trawniki and the person in charge of distributing equipment at Trawniki.

To establish defendant's participation in the death camp at Treblinka, the government presented the testimony of five (5) Jewish survivors and Otto Horn, a former SS guard. All of these witnesses identified defendant's visa photo (taken in 1951 for an application for an immigration visa) from a photo spread. Several of these same witnesses also testified to Demjanjuk's cruel treatment of prisoners as well as his operation of the motors which sent the deadly gas into the gas chambers.

In the first of the two consolidated cases now before this court, No. 84-3106, the defendant's Rule 60(b) motion was filed October 26, 1983, over two years after the district court's judgment had been entered. This motion was based on defendant's claim that Otto Horn and Henrich Shaefer had recanted their testimony. Defendant's Rule 60(b) motion in No. 85-3212, filed December 17, 1984, was premised on his allegation of improprieties in the original trial and "new evidence." Defendant claimed that "[e]xamination [of the Trawniki ID card] by qualified experts . . . disclosed that [it] was not only composed of different documents, but that other alterations had been made . . ." Appellant's Brief at 5. The district court in both No. 84-3106 and No. 85-3212 went to great lengths to address each of appellant's arguments.

Having reviewed the briefs and records and after oral argument, we are unable to add to Chief Judge Battisti's well-reasoned opinion and orders. Accordingly, we AFFIRM the judgments of the district court for the reasons stated in the entered opinion and orders of the district court.

FILED
FEBRUARY 12, 1985
AT 11:40 O'CLOCK A.M.
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U.S. DISTRICT COURT, N.D.O.

C77-923

ORDER

United States District Court
Northern District of Ohio
Eastern Division

UNITED STATES OF AMERICA,
PLAINTIFF,

VS.

JOHN DEMJANJUK,
DEFENDANT.

BATTISTI, C. J.

The above captioned proceeding was originally filed in 1977 under the Immigration and Nationality Act of 1952, 8 U.S.C. § 1451(a)(1982). On December 17, 1984, petitioner filed a Second Motion to Vacate this Court's June 23, 1981 denaturalization judgment, pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. For the reasons set forth below, the Court lacks jurisdiction to rule on this motion at the present time and will not certify to the Sixth Circuit that the petitioner should be granted a new trial. Rather, this Court is of the opinion that the motion to vacate should be denied.

I.

The background facts and procedural history of the litigation from which this Second Motion to Vacate arises has been set forth in great detail in earlier decisions concerning the denaturalization of John Demjanjuk and the pending proceedings regarding his

extradition. *United States v. Demjanjuk*, 518 F.Supp. 1362 (N.D. Ohio, 1981), *aff'd*, 680 F.2d 32 (6th Cir. 1982), *cert. denied*, 459 U.S. 1056 (1982); *United States v. Demjanjuk*, 103 F.R.D. 1 (N.D. Ohio 1983) (motion to vacate); *Matter of Demjanjuk*, 584 F. Supp. 1321 (N.D. Ohio 1984) (recusal motion). Nonetheless, a brief examination of the course of this litigation is appropriate at this point.

On June 21, 1981, this Court found that defendant had made willful misrepresentations of material facts when he obtained an immigration visa to enter the United States pursuant to the 1948 Displaced Persons Act, 62 Stat. 1009 and, thus, had "illegally procured" his citizenship. Thus, Demjanjuk's citizenship was revoked, as required by statute. *United States v. Demjanjuk*, 518 F. Supp. at 1381-82. This decision was based upon careful analysis of live eyewitness testimony, videotaped and written depositions, expert witness testimony and documentary evidence presented during a five-week trial. The Sixth Circuit affirmed this decision and the Supreme Court denied certiorari.

Subsequent to the trial, petitioner Demjanjuk has made numerous objections to the trial proceedings and the evidentiary basis for the denaturalization decision. Because of the unique nature of this case and the importance of the rights involved — Demjanjuk's United States citizenship — careful and complete consideration has been given to all of defendant's objections.

After the denaturalization trial but before a decision was rendered, defendant moved for a new trial, under Rule 59 of the Federal Rules of Civil Procedure, on the grounds that the plaintiff United States government had failed to comply with certain pretrial discovery requests, thereby depriving defendant of information and witnesses necessary for his defense. The Court denied petitioner's motion after holding a hearing on the motion, carefully reviewing petitioner's allegations and evaluating the potential testimony of which defendant had been unaware at the time of trial. *United States v. Demjanjuk*, 518 F. Supp. at 1384-88. The potential evidence was found cumulative and not such as would probably produce a different result at a new trial. *Id.*

On October 23, 1983, more than two years after the original decision in the denaturalization proceeding, petitioner filed his first Motion to Vacate Judgment. Several of the grounds on which the

motion was based were time-barred by Rule 60(b)'s requirement that certain Rule 60(b) motions be brought within one year. Petitioner's allegations of "fraud on the Court" and "misconduct, errors and corruption of the court" were considered on their merits.

Petitioner's Motion to Vacate was based on an affidavit by Mark O'Connor, petitioner's counsel (October 26, 1983), and affidavits by Otto Horn (September 13, 1983) and Heinrich Schaefer (September 13, 1983). O'Connor alleged that the Office of Special Investigations ("OSI") as an officer of this court, had perpetuated a fraud on the Court by presenting the Court with perjured testimony of both Horn and Schaefer. He also alleged that the Soviet government falsified the Trawniki SS Training Camp identification card ("Trawniki card") which was admitted into evidence at the denaturalization proceeding; that the OSI collaborated with the Soviet government in discrediting the petitioner; and that this Court condoned and actively endorsed the collaboration.

This Court carefully reviewed both parties' memoranda of law, petitioner's supporting affidavits and the original trial transcripts and decided that:

> Without more substantial, better documented evidence that the OSI and the Russian government did conspire to deceive this Court as to the trustworthiness of the evidence amassed against the petitioner, or that the Court was an active participant in an OSI-Russian plot to strip petitioner of his citizenship, this Court sees no reason to retry the evidentiary questions raised and scrupulously considered at trial regarding the admissibility of, and the weight to be accorded to, various witnesses' testimony or the Trawniki Camp identification card formerly in the custody of the Soviet government. None of the bald assertions contained in O'Connor's affidavit regarding any fraud upon the court as perpetrated by the OSI and the Soviet government move this Court to vacate judgment in the case. *United States v. Demjanjuk*, 103 F.R.D. at 5.

Furthermore, it was concluded that the most recent Horn and Schaefer affidavits were not dispositive of fraud upon the Court and that, were it at liberty under Rule 60(b) to review those affidavits for perjury, it would conclude that neither those affidavits nor O'Connor's affidavit presented any substantially new information or information that differed materially from the trial testimony. *Id.* at 6.

Petitioner's allegations concerning improprieties committed by United States government employees and fabricated evidence were examined in detail yet another time when this Court considered petitioner's Motion for Recusal, filed in *Matter of Demjanjuk*, an action initiated by the State of Israel, through its representative the United States government, for the extradition of Demjanjuk pursuant to the extradition treaty between the United States and Israel. 584 F. Supp. 1321. Petitioner alleged that this Court harbored a personal bias against him and his counsel and favored the United States government and Israel.

The voluminous record in this case was considered, as well as all memoranda, documents, proceedings, and orders in the extradition action. The affidavits of both Demjanjuk and his counsel Mark O'Connor were closely examined. An affidavit, to be sufficient in law, must include objective and definite facts that, reviewed as a whole, "would lead a reasonable man to believe that the Court is biased or that the Court's appearance of impartiality is in doubt." *Id.* at 1325; *see also Roberts v. Bailar*, 625 F.2d 125, 129 (6th Cir. 1980). *Martelli v. City of Sonoma*, 359 F. Supp. 397 (W.D. Cal. 1973), *aff'd*, 556 F.2d 587 (9th Cir. 1977). The Court found that Demjanjuk's supporting papers included conclusory statements regarding judicial bias rather than objective facts and details, *id.* at 1326, and, furthermore, that the papers lacked specific factual allegations demonstrating that the Court's purported bias emanated from an extrajudicial source, *id.* at 1331-32. Thus, it was concluded that petitioner failed to present legally sufficient grounds for disqualification.

Petitioner has appealed the denial of his original Motion to Vacate and the Motion for Recusal. These appeals are currently pending before the Sixth Circuit Court of Appeals.

II.

Petitioner's second Rule 60(b) Motion to Vacate the judgment of June 25, 1981 is based on purportedly new evidence and alleged improprieties in the original denaturalization proceeding. *See Motion to Vacate* (December 17, 1984) at 1, 31-34. Petitioner alleges:

> 1. Fraud on the Court under Rule 60(b)(6) F.R.C.P.
>
> 2 Misconduct, errors and corruption of the Court under Rule 60(b)(6) F.R.C.P.
>
> 3. Fraud, misrepresentation and affirmative misconduct on the part of a third party and Officers of the Court, under Rule 60(b)(6) F.R.C.P.
>
> 4. Errors and neglect on the part of Counsel for the Defendant under Rule 60(b)(6) F.R.C.P. *Id.* at 1.

Petitioner has filed his Motion while his appeals from the orders denying his first Motion to Vacate and his Motion for Recusal are still pending.

The procedure to be followed when a motion to vacate is filed while an earlier appeal is still pending is not explicitly stated in Rule 60(b) of the Federal Rules of Civil Procedure. In the Sixth Circuit, however, the proper mechanism has been clearly delineated. While an appeal is pending in a case, jurisdiction is vested in the Court of Appeals. *Cf. First National Bank of Salem, Ohio v. Hirsch*, 535 F.2d 343, 345-46, (6th Cir. 1976); *Smither v. Pollin*, 194 F.2d 349, 350 (D.C.C. 1952). The party seeking relief, nonetheless, should make his Rule 60(b) motion to the district court which rendered the initial decision. The district court then makes a "full and careful investigation of the problem." *Herring v. Kennedy-Herring Hardware Company*, 261 F.2d 202, 203-04 (1958). After its investigation, the district court informs the Sixth Circuit that it would deny the motion to vacate or certifies to the Sixth Circuit that the appellant should be granted a new trial. *Id.* at 204. *See also First National Bank of Salem, Ohio v. Hirsch*, 535 F.2d at 346. If the district court certifies that it disposed to grant the motion, the requesting party may file a motion to remand in the Sixth Circuit. The Sixth Circuit would then rule

on the motion to remand. *First National Bank of Salem, Ohio v. Hirsch*, 535 F.2d at 346. If the district court states that it would deny the motion to vacate, the Sixth Circuit would then consider the appeal in the ordinary manner. *Id.*

III.

Having made a full and careful investigation, this Court declines to certify to the Sixth Circuit that the petitioner should be granted a new trial. Several factors have gone into this decision.

Despite the voluminous exhibits included in petitioner's second Motion to Vacate, petitioner has not set forth any new evidence of "fraud upon the court" which would lead to a reconsideration of its denaturalization judgment under Rule 60(b)(6). *Cf. United States v. Demjanjuk*, 103 F.R.D. at 3-5 (motion to vacate). Rather than presenting objective facts or new and well documented exhibits, petitioner uses his Motion to Vacate as a vehicle to articulate emotional and baseless claims which have been previously examined and which bear no relation to the legal issues that must be considered in deciding a motion to vacate.

In addition, petitioner presents no substantial new evidence to substantiate his allegations numbered (2), (3), or (4), set forth on page ? above. Furthermore, petitioner gives no reason which indicates why he has not previously presented the two affidavits offered as potential new evidence. *See* Exhibit B (Samuel Eugenia statement under oath, Warsaw, January 1984) and Exhibit C (Stanislaw Swistek statement under oath, Warsaw, January 1984), *Motion to Vacate* (December 17, 1984).

Even if petitioner could articulate a valid rationale for his delay in presenting the purportedly new evidence, under Rule 60(b)(2), a Motion to Vacate based on "newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b)" must be brought within one year after judgment. Thus, petitioner cannot base his motion on Rule 60(b)(2). Were this Court able to evaluate the quality of the potential evidence, however, it would find the evidence merely cumulative in nature and tending to affect only in some insignificant respect the credibility of evidence already considered. *Cf. Thomas v. Nuss*, 353 F.2d 257, 259 (6th Cir. 1965); 6A Moore's Federal Practice § 59.08[3] at 59-118 (2d ed. 1979); *see also United States*

v. Demjanjuk, 518 F. Supp. at 1385-86 (motion for new trial). Nothing indicates a probability that the outcome of the proceeding might have been changed by the newly-offered evidence. 353 F.2d at 259.

In the decision denying petitioner's First Motion to Vacate, it was stated that "[h]opefully, [this] review of the information proferred by the petitioner will lay to rest any and all speculation that petitioner's case was not fully and fairly litigated" *United States v. Demjanjuk*, 103 F.R.D. at 12. Unfortunately, this hope was not realized. As illustrated above, great care has been taken to carefully examine all of the evidence presented at any point in both the denaturalization proceedings and the pending extradition matter involving John Demjanjuk. This Court should not continue to entertain on the merits all Motions to Vacate that petitioner might choose to bring. Rule 60(b)'s "reasonable time" requirements, the relevance of the motions and the lack of new evidence of any substance must be taken into account. Allowing endless motions to vacate would seriously undermine the finality of judgments policy and would result in both an abuse of the judicial proces and a waste of judicial resources.

IV.

Rule II of the Federal Rules of Civil Procedure provides that every motion of a party represented by an attorney shall be signed by at least one attorney of record. The signature of the attorney certifies that he has read the motion and that "to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation." Rule II has recently been strengthened by emphasizing the attorney's responsibilities and by reinforcing those obligations by expanding the equitable doctrine permitting a trial court, where appropriate, to award expenses as sanctions. Notes of Advisory Committee on Rules to 1983 Amendment.

Petitioner's Second Motion to Vacate rises, at best, to the level of frivolity. It raises nothing new pertaining to Demjanjuk's de-

naturalization proceedings. Rather, the motion appears to be interposed for an improper purpose and related to matters which have no place in a court of law.

Counsel for petitioner is instructed not to file further baseless motions in this denaturalization proceeding. If future motions are filed which rely on the same allegations of improperties and altered evidence or similar meritless charges and accusations, appropriate sanctions will be imposed on counsel or on the represented party, pursuant to Rule II.

V.

As discussed above, the Sixth Circuit presently has jurisdiction over this case. It is, therefore, the proper forum in which the petitioner should raise his claims. This Court does not recommend to the Sixth Circuit that it remand the case so that a new trial can be granted.

IT IS SO ORDERED.

/S/ FRANK J. BATTISTI
Chief Judge

Affidavit

State of Ohio)
) SS
County of Cuyahoga)

EDNA W. ROBERTSON, being first duly sworn, according to law, deposes and says that the following is my statement given in question and answer form regarding the John Demjanjuk case and my examination, evaluation and determination of photographs of evidence.

Q. Would you please tell us your full name and spell it for the record?

A. Edna W. Robertson, R-O-B-E-R-T-S-O-N.

Q. Please give us your home address?

A. 7907 Laird Street, Panama City, Florida 32407.

Handing you what has been marked as Edna W. Robertson's Exhibit "A" and is attached hereto and made a part hereof.

Q. Mrs. Robertson, would you look at Exhibit "A"?

A. Yes

Q. Have you taken an opportunity to examine it?

A. Yes.

Q. Would you tell us what this is?

A. This is a statement of my qualifications, it lists my educational, special training, experience, teaching experience. I have also taken the time to include the library I have maintained with regard to the work that I do. I have also listed on my statement of qualifications, the laboratory equipment that I have at my office and, I have listed the papers I have written, published or have presented at the various seminars or other written materials that have been caused to be published as a result of my efforts. I have also included several awards I have received and the membership in professional organizations which I belong. I have also listed where I have been referenced in books

relative to my area of expertise which I work. I have also taken the liberty to include some of the community interests which I have been involved with in my community area.

Q. Mrs. Robertson, included in that which was marked for identification purposes as Edna W. Robertson's Exhibit "A", is there also a list of your court appearances?

A. Yes, there is a partial list of court appearances that I have submitted as part of the aforementioned exhibit.

Q. Mrs. Robertson, if you will look at what I have handed you, and that being Government's Exhibit No. 5, what is also marked Exhibit 32(e), Exhibit 35 and Government's Exhibit 5(B), would you please examine them?

A. Yes, I have taken a look at them.

Q. Although they appear to be somewhat similar, would you please tell us what differences you note in those three exhibits?

A. Government's Exhibit 5 is a photograph, as well as are Exhibits 5(b) and 32. Each has been to a greater or lesser extent been altered or blocked out. In examining the left side of these documents that are depicted in Government's Exhibits 5, 32(e), 5(b) and 32, I can readily determine that in both Exhibits 5 [32(e)] and 32 the alteration or blocking out has been done in a different way. This can be seen in examining that which I have attached and marked as Edna W. Robertson's Exhibit B where arrows have been placed for further clarification. In examining Government's Exhibit 35 in this area that will be depicted in Edna W. Robertson's Exhibit C where arrows have been placed for further clarification. One will see that the alteration or blocking out begins somewhat lower and in the margin on the left hand side as you are facing it one will see that there is some ink that has shown through that was not completely blocked out or altered as it had been in Government's Exhibit 5. In examining Government's Exhibit 5(b) we see what purports to be the document where this alteration or blocking out does not appear. This is the area where there appears to be and has been indicated to me to be Cyrillic writing that will be depicted with arrows in Edna W. Robertson's Exhibit D. In addition to that if one examines both

Government's Exhibit 5, [32(e)] and compares that with 5 (b) one will notice on the right hand margin looking at it in the general area where the whole side is filled in with typing and/ or printing and the name Streibel appears on the bottom, one will see in both of the aforementioned exhibits Government's Exhibit 5 also marked 32(e) and 5(b) that there are several what appears to be either rips, tears or jagged edges on the right hand margin as you are facing it, that do not appear in the right hand margin of that which has been marked for identification purposes as Exhibit No. 35, which will be depicted with arrows in Edna W. Robertson's Exhibit No. B, C & D.

Q. Now Mrs. Robertson, with regard to that point which you had just discussed and that is the obvious missing pieces or ripped or torn edges of Exhibits that can be shown and seen on the Government's Exhibit 5 also marked 32(e) and Government's Exhibit 5(b) that does not appear on Exhibit 35, what can you explain or tell us about that difference?

A. Yes, obviously the photograph that we have depicted in Government's Exhibit 35 was taken at the time prior to that which is depicted in Government's Exhibit 5, 32(e) and also Government's Exhibit 5(b). It would be my considered opinion and belief that one cannot determine when each of the photographs that were depicted in the various exhibits were taken, one can only know for certain that it was at two separate times because parts of that which has been marked as the above mentioned exhibits do differ with regard to these edges.

Q. Referring once again with regard to the same mentioned Exhibits 5, [32(e)], 5(b) and 32, you indicated that on the left hand side of each you had indicated that there were in some instances alterations or blocking out, would you please explain that a little bit more in detail?

A. Yes, in examining Government's Exhibit 5, also marked 32(e), I can determine that something, perhaps a piece of paper was placed on the left hand side that completely obliterates anything that was underneath it. In examining Exhibit 35, I can determine that probably a sheet of paper was placed on it and it was not uptight placed close to German words which are directly above it. Also, toward the middle of the page you can

see that the writing that was underneath on that Exhibit indicates that the writing was not as completely covered as it was in Government's Exhibit 5 [32(e)]. In taking and moving a piece of paper and I am now referring to Government's Exhibit 5(b), it can readily determine that those several dots are consistent with the dots appearing in Exhibit 35. Also, the finishing strokes of the Cyrillic writing shown in Exhibit 35 can be readily compared to the stroke endings of the 3 lines of Cyrillic writing shown in Government's Exhibit 5(b). Now once again referring back to Government's Exhibit 5, also marked 32(e), Exhibit 35 and Government's Exhibit 5 which are items that were alleged to be the front side of the identification card.

Q. Would you tell us what differences you can tell us based upon your examination?

A. First of all, at this point I would prefer not to refer to these Exhibits as an item that would be considered to be an identification card. I do not believe it to be so, however, at this time I would prefer referring to it as what it purports to be as it has been identified for court purposes and at a later time I will explain why I do not believe it is an identification card.

Q. Please go on.

A. In considering Exhibits 5 [32(e)], 5(b) and 35 as you look at the left hand side, where the top line begins with RAUM and continuing on to the conclusion of that line, it is my opinion that that is printed material, as is depicted with arrows in Edna W. Robertson's Exhibit B-D. The four sentences under it and beginning with the word WIRD; the next line, the third line and the fourth line, are in my opinion has been placed there by means of a rubber stamp. This observation is disclosed more graphically by the observing of the narrowing of the space between the word RAUM and WIRD as these two separate lines run across the page. In addition, there is a differential regarding color. There, also, appears to be several missing letters in the stamped portion. As can be depicted with arrows in Edna W. Robertson's Exhibit B-D. In looking at the right hand side of the aforementioned documents 5 [32(e)], 5(b) and 35 where the following letters DIENSTSITZ LUBLIN appear and underneath that the word AUSBILDUNGSLAGER

TRAWNIKI as is depicted with arrows in Edna W. Robertson's Exhibit B&D. In my opinion these two items were also added by way of a rubber stamp and that the rest of the printed material exclusive of the typing and the added Cyrillic writing in my opinion is part of a printed material or it is a copy of something that was originally printed in form.

Q. With regard to these three documents, can you tell us if you have noticed anything unusual with regard to the printed material?

A. Yes, in examining some specific letters that can be readily ascertained, I can see that the printing on one side of the paper is different than the printing on the other side. I determined this by several specific letters, the "A's", the "T's" and under more close scrutiny, even the "E's" and determined that the printing on the right hand side is different than that which appears on the left hand side with the word RAUM.

Q. Mrs. Robertson, what impression does this leave upon you?

A. That either the document was printed at two separate times or that it was run through a printing press on two separate times. I can make no final conclusions as to when or where or how it was done, I can state that this possibility exists.

Q. Mrs. Robertson, would you please go on regarding said exhibits?

A. Yes, I have observed that Government's Exhibit 5 [32(e)] and 5(b) have pieces or parts of the left edge missing.

Q. Mrs. Robertson, with regard to the missing pieces as is exhibited in Government's Exhibit 5 and 5(b), do you have any opinion as to what this might indicate?

A. I do not have a specific reference as to why it is missing, one can only make some independent evaluations as to what may have happened and what could have been. It is very possible that the upper most one, that is more like a jagged triangle and the lowest one, which is right at the corner, the lowest right hand corner as you are facing it immediately under the signature STREIBEL could very well indeed be pieces that are just worn off and based upon use or some kind of ripping that was caused based upon an edge or so. However, a possibility does

exist that the piece that is missing just a little bit past half way down and continuing on in the two lines that being with the IST and the line below it that begins with RF-SS and the next line beginning with IM, it could very well have been that a sample plug was taken from the paper to determine the age and origin of the material and paper used there. (As is depicted with arrows in Edna W. Robertson's Exhibit B & D.

Q. Now you indicated this could be or there is a possibility existed that this could be a piece that was removed for testing purposes is there any way that you can be sure of that?

A. There is no way of knowing what this piece was removed for, whether it was inadvertently or intentionally removed.

Q. Mrs. Robertson, with regard to the indication that you have just made in determining the type and quality of paper and also perhaps the origin, would you please explain that in more detail?

A. Yes, although I do not perform those tests, I know that testing centers are readily available where the type, origin, quality of paper and perhaps even the dating can be made.

Q. Do you attach any significance to the fact to that which is exhibited in Government's Exhibits 5, 32(e), and also 5(b) is different than what is exhibited in Exhibit 35?

A. With regard to what I have just stated, I can make no positive determination because I do not have the information at my hand. There would be a possibility and as I have indicated the original has been requested. In the event it was available with regard to the aforementioned points, I believe that those tests could be performed by appropriate persons who could make evaluations and final determinations.

Q. With regard to Government Exhibit 5(b), did you make any other evaluations based upon your examination of that Exhibit?

A. Yes, in examining 5(b) and that which appears to be Russian Cyrillic writing wherein the numbers 12/-43 appears and comparing it to what has been received through witness Leach in her testimony at page 914, lines 11-13, the translation given was translator 4, Administrator of the Ministry of State Security, USSR, Zbazilevaskaya, 12/3/48 which differs from what

has been marked on the back of said exhibit where the authenticating seals indicate that it is from a section of Embassy in the U.S.S.R. in the USA in the City of Washington. It indicates certain signatures of the various officials, vice-council and it indicates that the photocopy is accurate and the original is located in VINNITSKIY OBLAST State Archive which differs from what appears on Government's Exhibit 5(b).

Q. Mrs. Robertson, handling you what has been previously marked for identification purposes as Government's Exhibit 6 and Government's Exhibit 6(b), would you please examine these documents and in particular, with regard to that which was referred to on what is alleged to be the opposite side of this single document, would you please explain once again, in relationship to that which we previously discussed with regard to printing, etc., and would you please give us your findings and your evaluations?

A. Yes, thank you. First of all, in examining this card, I find that the two exhibits are photographs of the same document. I believe the only difference is what appears to be primarily on Government's Exhibit 6(b), it appears that either a better photograph was made or perhaps a little closer because one seems to be a little clearer than the other. There is really no basic difference between the two.

Q. Thank you Mrs. Robertson. Now examining once again the difference, if there is any, with regard to the printed material thereon, have you made any findings based upon your studies on these documents?

A. Yes. In examining the printed material it is my opinion that there is a difference in the printed letters when comparing certain letters. This can be readily seen in the "T's" and also in the capital "A's". There are some additional differences that can be demonstrated when pointed out by qualified document examiners. As depicted in Edna W. Robertson Exhibits B, C, D, E, F.

Q. Mrs. Robertson, have you checked that which has been marked as Government's Exhibits 5 [32(e)]; 5(b); 35; 6 and 6(b) as to the typing that appears thereon?

A. Yes. It is my opinion that the same typewriter that was used wherever typing appears on these several documents. The dirty "E" appears consistently on these exhibits.

Q. Is there anything else you observed with regard to your observations and evaluations of that which has been marked for identification purposes as Government's Exhibits 6 and 6(b)?

A. Yes, in examining the photograph I have discovered two marks which are the result of this photograph being stapled to something at another time. If you will look to the area just next to the left ear of the individual shown in the photograph and again just below that dot you will see the second dot. This appears to be staple holes (as are depicted with arrows in Edna W. Robertson's Exhibit E & F).

Q. Mrs. Robertson, what can be made of this observation with regard to the staple mark and the holes on this photograph?

A. It is my opinion that this photograph was stapled to another document at a time earlier.

Q. Mrs. Robertson, you indicated it was stapled to another document, are you referring to a document other than 5 [32(e)], 35, 5(b), 6 or 6(b)?

A. Yes. The item that is the total document as is depicted in Government's Exhibits 5 [32(e)], 35, 5(b), 6 and 6(b) are photographic copies of what is a single document; it is merely different photos of the front and back of a single document. Therefor, in examining all other areas of these said Exhibits and there is no evidence that this photo was ever affixed with staples to these variously depicted Exhibits. The evidence that no holes appear elsewhere, leaves me with no firm conclusion. That this photograph was stapled to another card, paper or another type of backing and it was not the card that it is now affixed or appears to be affixed to.

Q. Mrs. Robertson, would you say that based upon that, that this photograph was originally attached to something other than that what it is now allegedly attached to?

A. Yes. It would be my opinion that the photograph was affixed to something other than what it is presently affixed and the

manner in which it was affixed is different than what it is presently affixed with.

Q. In examining all of the aforementioned documents, that being 5, 5(b), 35, 6, 6(b), etc., would you tell us what your observations are with regard to the edges other than what you have previously discussed relating to missing parts along the edges?

A. Yes. I have noticed that the edges as they are depicted in the Exhibits that I have examined, indicate very clean, smooth edges and, even the centerline is also, clean and somewhat clear. Although I cannot be certain without seeing the original, it would appear to me that this would be the kind of the document that would be kept in a filing cabinet and would not be an item that would be used and carried around by an individual. It is too clean and too well preserved in my opinion to be an identification card that would be carried around by a person. It would normally be expected that if someone were to use it as an ID card over a period of time, the edges would be a little bit more worn and in a more pronounced wear line.

Q. Now Mrs. Robertson, in examining the photograph again of Government's Exhibits 6 and 6(b), and directing your attention to the area that is blocked in a rectangular fashion and also the area that is blocked out or whited out in the area of the left chest on the photograph of the individual depicted thereon and would you please tell us of your findings?

A. Yes, I have examined the area that you have described (as depicted with arrows on Edna W. Robertson's Exhibit E & F).

Q. Have you had an opportunity to review forensic document examiner Gideon Epstein's testimony as it relates to his findings regarding his observations of numbers by using lower magnification?

A. When questioned document examiners refer to lower magnification, generally, they are referring to a magnification of less than 10 power. Even so, when such a confirmation is made with sight, this confirmation can and should be memoralized by a separate photograph or reproduced for the courtroom. Certainly, in the event that through any process of magnifica-

tion he was able to do this, he should have and could have been able to reproduce it in such a way that there would be a record or observable document or exhibit that could have been shown. However, with the method he describes (low magnification), I must confess that I disagree with him. I know of other methods where infrared and other light processes are used in order to bring out or show obscured features, however, with his indication of low magnification, I would take issue with his findings and indicate that in my opinion they may not be reliable.

Q. Mrs. Robertson, having examined photographs of the various exhibits and made your observations of that which is purported to be an ID card and also based upon the fact that at an earlier time, you indicated that you preferred not to call this an ID card, would you give us an opinion as to what you believe it is?

A. The reason that I have indicated earlier that this document (taken as a whole) should not be referred to as an ID CARD is that from all of the observations that I have made and the evaluations relating to these documents, I can find nothing consistent with the determination that it is an identification card. Generally speaking, identification cards would be documents where the signature of the identifiable person would be very close to his photograph. In the identification cards that I have seen from this era, the photographs appear on the face of the card. Furthermore, based upon what I have seen and the observations that I have previously made, this appears to me to be a card that would normally be found in a filing cabinet where personnel records are kept. This document would be what is usually referred to as a personal bogan or personnel record sheet.

Q. Would you have an opinion based upon reasonable scientific certainty as to whether or not these documents that are purported to be identification cards of one Ivan Demjanjuk are authentic?

A. Yes, I have an opinion, however, I would first like to say that my investigations and my conclusions would be better enhanced if I examined the original document. In any event, I

do believe that with the numerous errors, obvious alterations and blocking out and other discrepancies that I have found and state above leads me to the opinion that this document [taken as a whole Government's Exhibits 5, 5(b), 35, 6, 6(b)] is or may not be authentic.

Q. Mrs. Robertson would you be in a position at this time to render any further comments or observations regarding this case?

A. Yes, Mr. Gill, as you can well understand wherever an individual who has special skills and training takes on an assignment, whatever the importance, it is always best for a forensic document examiner to have an opportunity to look at and evaluate originals. This should provide even more assured results. The photographs that were used in my investigations and determinations certainly were first quality and provided me with the information that I have stated above. I am confident of what is stated above. However, I do believe that which I have stated above will be more clearly evaluated when I have an opportunity to examine the original document.

Q. Thank you, Mrs. Robertson.

Verification

State of Ohio)
) SS
County of Cuyahoga)

EDNA W. ROBERTSON, being first duly sworn, states that her above listed qualifications are true and the said affiant further states that she made an examination of certain documents pertaining to John Demjanjuk and that her answers to the above questions are true as she varily believes.

/S/ EDNA W. ROBERTSON

SWORN TO BEFORE ME and subscribed in my presence, this 3rd day of March, 1984.

/S/ JEAN TAYLOR
Notary Public

Robertson Document and Handwriting Examiners
7907 Laird Street
Panama City, Florida 32407
(904) 234-2632

Edna W. Robertson, M.A. Louis M. Robertson, B.S.

Statement of Qualifications

Edna W. Robertson, M.A.
Certified Document and Handwriting Examiner

Edna W. Robertson
Exhibit A

Education

MA in Psychology from University of West Florida, June 1977.

BA in Psychology from University of West Florida, June 1975.

Specialized Training

Awarded Degree of Master Certified Graphoanalyst by International Graphoanalysis Society, Inc., Chicago, Ill., February 1972.

Awarded Certificate for Graduate Resident Training, Advanced Resident Training, and Resident training in Professional Graphoanalysis, 1973-1981.

Awarded Certificate of Participation in the course, Paper Analysis for the Forensic Sciences given by the Institute of Paper Chemistry, Appleton, Wisconsin, April 8-11, 1980.

Awarded Certificate of Training by International Association for Identification, 22nd Annual Training Conference, Florida Division, 7-10 October, 1981.

Over 500 hours of class room instruction (1973-1982) in attendance at seminars sponsored by the Independent Association of Questioned Document Examiners in conjunction with several law schools including Oklahoma City University School of Law, Oklahoma City, Oklahoma; Oklahoma University Law Center, Norman, Oklahoma; Southern Methodist University School of Law, Dallas, Texas; Dayton University School of Law, Dayton, Ohio; and San Diego University Law School, San Diego, California. Among subjects covered in these classes were basic and advanced techniques in handwriting comparison and identification, typewriter and typeface identification, typist identification, thin layer ink chromotography, paper, watermarks, characteristics of different writing instruments, document photography, use of instruments in document examining, report writing, and court room procedures.

Additional specialized training in attendance at:

Seminars sponsored by the World Association of Document Examiners, Chicago, Illinois, 1974, 1977, 1978, 1979, and 1982.

Seminars sponsored by the National Association of Document Examiners, 1980 and 1982.

Meeting of the International Association of Forensic Sciences, Wichita, Kansas, May, 1978.

Meetings of the American Academy of Forensic Sciences, 1979, 1980, 1982.

Over 5,000 hours of independent study, research and consultation with other document examiners, 1971-1982.

Certified by testing by Independent Association of Questioned Document Examiners, Inc., October 1978.

Experience

Began private practice in 1971 and have worked continuously since that time in document examination and handwriting analysis. Have worked on more than 1,000 cases and more than 10,000 signatures in addition to numerous other types of document problems such as typeface and typist identification, obliterated writing, altered documents, copy machine alterations, carbon copies, ink and paper identification.

Member: Independent Association of
Questioned Document Examiners
World Association of Document Examiners

Have testified as a document and handwriting examiner in local, state and federal courts, and on one occasion as a federal witness. Have been qualified and testified as an expert in document and handwriting examining in Florida, Alabama, and Pennsylvania, and Iowa.

Teaching Experience

Instructor, Fundamentals of Document Examination 205, International Graphoanalysis Congress and Institute, Chicago, Illinois, July 1977, 1978 and 1979.

Instructor for two-day seminar in document examining for the West Pennsylvania Chapter of Graphoanalysts, Pittsburgh, Pennsylvania, November 1975.

Instructor for two-day seminar in document examining and handwriting analysis for the Ontario Chapter of Graphoanalysts, Toronto, Canada, November 1979.

Instructor for one day seminar in document examining for South Carolina Chapter of Graphoanalysts, Columbia, S.C., May 1981.

Instructor for one day seminar in handwriting analysis for Ohio Chapter of Graphoanalysts, Columbus, Ohio, February 1982.

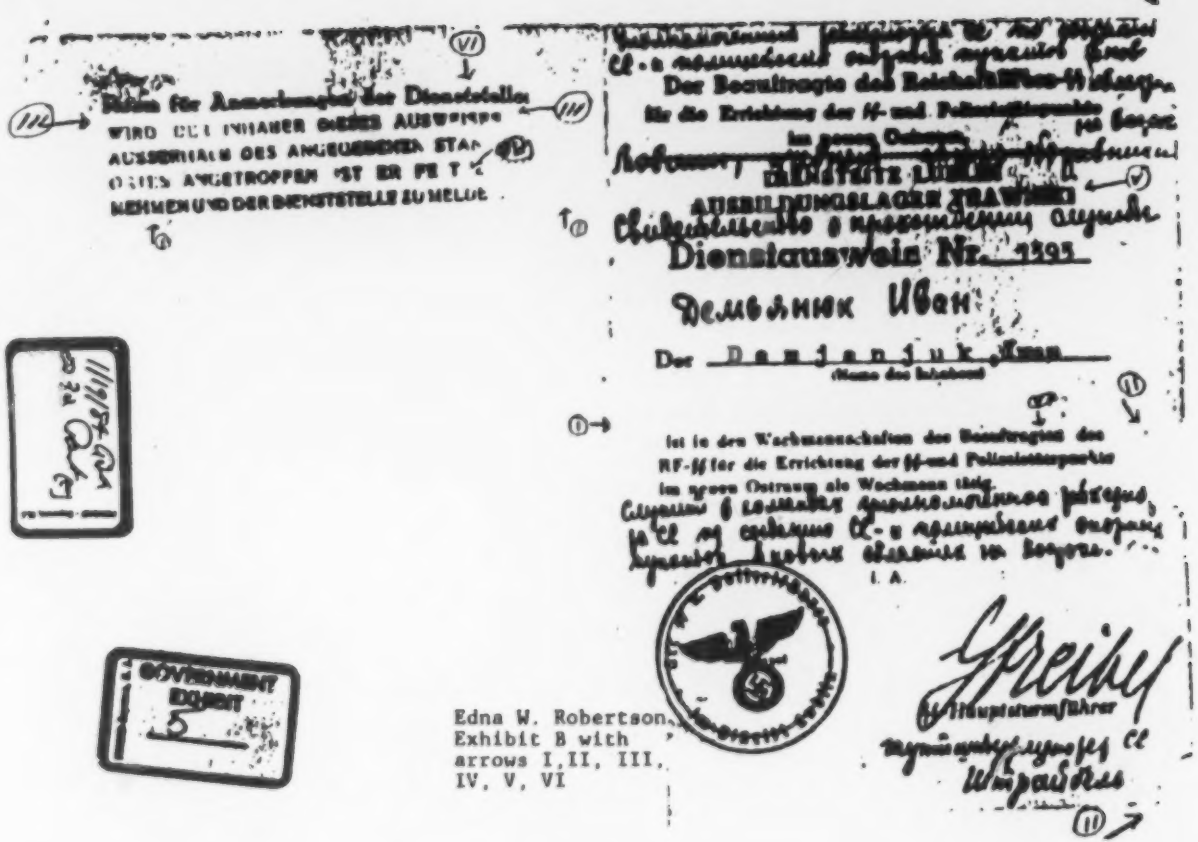
Instructor for four-hour classes in Document Examining for Florida Graphoanalysts, Fort Lauderdale, Florida, 1973 and in Panama City, Florida 1974.

Direct the educational efforts of the World Association of Document Examiners, Chicago, Illinois, 1981-1982.

Instructor for private tutoring on document examining techniques in laboratory setting including elementary procedures in thin layer Chromatography of inks, use of special instruments such as the ESDA, transparency makers, and infrared image converter.

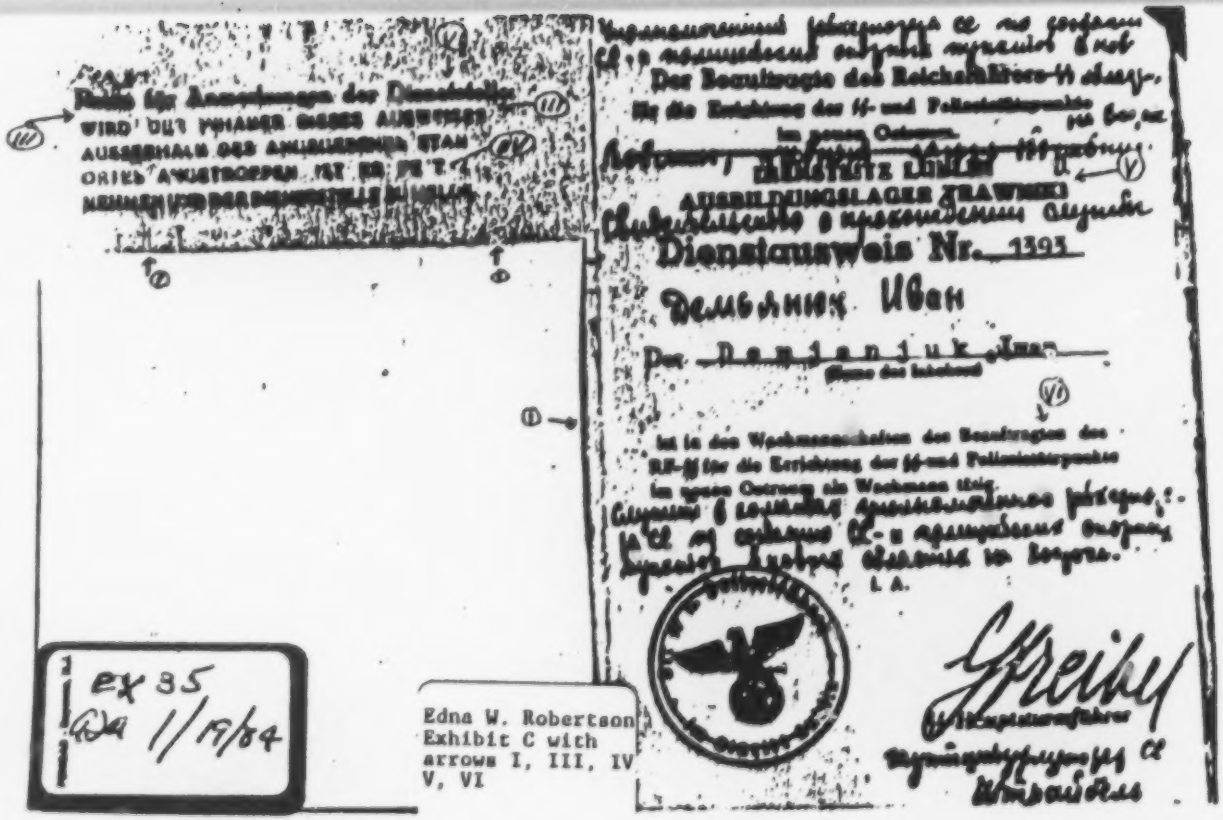
Serve as national consultant to members of the World Association of Document Examiners and other document examiners.

Mrs. Robertson's Working Exhibits Follow:


Bitte für Anmerkungen der Dienststelle
WIRD DER INHABER DIESES AUSWEISES
AUSSERHALB DES ANGEGEBENEN STAN
ORTES ANGETROFFEN IST ER FE T
NEHMEN UND DER DIENSTSTELLE ZU MELDE
Der Beauftragte des Reichsführers-SS
für die Errichtung der SS- und Polizeistützpunkte
im neuen Ostraum
DIENSTSTELLE LUBLIN
AUSBILDUNGSLAGER TRAWNIKI
Dienstausweis Nr. 1395
Der Damjanjuk
ist in den Wachmannschaften des Beauftragten des
RF-SS für die Errichtung der SS- und Polizeistützpunkte
im neuen Ostraum als Wachmann tätig.
I. A.
Hauptsturmführer

GOVERNMENT EXHIBIT 5

Edna W. Robertson,
Exhibit B with
arrows I, II, III,
IV, V, VI



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Edna W. Roberston
Exhibit E with
arrows II and III

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Ausgegeben:

Richtig empfangen

Edna W. Roberston
Exhibit F with
arrows II and III

GOVERNMENT EXHIBIT 68

SPECIMEN DATE

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State of Ohio)
) SS
County of Cuyahoga)

Affidavit

FABIAN TASSON, being first duly sworn according to law, deposes and says that the following is my statement given in question and answer form regarding the John Demjanjuk case and my examination, evaluation and determination of photographs of evidence.

Q. Would you please tell us your full name and spell it for the record?

A. Fabian J. Tasson, T-A-S-S-O-N.

Q. Please give us your home address.

A. 2517 Hungleigh, Springfield, Illinois 62704

Q. Do you have a resume?

A. Yes

Q. Does that accurately state your education, specialized training experience, teaching experience, specific seminars you attended, professional contributions, papers: authored, presented, published, library, laboratory, award, honors and distinctions.

A. Yes

Q. Mr. Tasson, handing you what has been marked for identification purposes Government's Exhibit 5, would you please examine this?

A. Yes.

Q. Have you examined it?

A. Yes, I have.

Q. With regard to that, can you tell us, what has previously been offered as an identification card, would you tell us what this is?

A. At the present time, I believe that based upon the information previously supplied and the fact that I have done some evaluating with regard to what would later be described as the front and back side of a single document that you have just now referred to as an identification card, I believe that based upon my complete evaluation I cannot call or refer to these Exhibits as an identification card. I believe it is a part of some file papers that can more specifically be referred to as a personal bogan or a personnel fine. It would be something more likely to be found in a filing cabinet rather than something that would be carried on a person for identification.

Q. Again, directing your attention to that which has been marked Government's Exhibit 5 in examining that document, have you made any findings relative to the printed material thereon?

A. Yes, I have in examining that which has been marked for identification purposes Government's Exhibit 5. I find that the document, that contains printed material, typed material, printing that was added with a hand stamp and handwriting. There is also seal or a stamp placed on Exhibit 5.

Q. Directing your attention to the printed material, would you explain any observations you have made relative to that?

A. Directing your attention to the left hand side of that which has been marked for identification purposes as Government's Exhibit 5, the words RAUM fur, etc., continuing on in that complete line is printed material. On the opposite side of the page, there are several specific areas of printed material. There is an obvious difference in the printed material so as to lead me to believe that there is a difference between the print on the left side as opposed to the right side. It would give me with the belief that either it was done at a different time or that two pieces of paper were placed together to give the appearance of a single document. (Fabian Tasson's Ex. B)

Q. Now you indicated that there is written material that has been added by use of a hand stamp, would you please explain this?

A. Yes, the words on the left hand side beginning with WIRD and that complete line and the three complete lines underneath it, there is a possibility that it has been added by a hand stamp. In looking at the right hand side of the paper, I would make

the same conclusions with regard to the two lines that are DIENSTSITS LUBLIN and the line immediately below that, I believe those two lines were added by something like a hand stamp. But other aspects as I have said before, in examining for example the "F", "G", "T" and in carefully scrutinizing the "E" and the "G" I have determined that either side of this exhibit was done with a different typeset. Also, I note that there seems to be a misalignment of the printed material from left side of the page to the right, however, in not having an opportunity to view the original, it is difficult to completely verify this. However, it does appear to be off, as it applies to the printed material. (Fabian Tasson Ex. C).

Q. Handing you what has been marked for identification purposes as Government's Exhibit 5(b), would you please look at it and tell us what your findings are?

A. I would make several comments relative to this. On the left hand side of the page there appears to be Russian writing that begins under what I had stated before ending with the four lines that can be shown, as depicted with arrows on Fabian Tasson's Exhibit BIV. And in referring back to Government's Exhibit 5, this would be that portion which is directly under the four lines that were added by use of a hand stamp, wherein that area is completely blocked out or altered so as to cover up the portion of that which is depicted in Government's Exhibit 5.

Q. Handing you what has been marked for identification purposes as Government's Exhibit 35, would you compare that to the previously inspected Government's Exhibits 5 and 5(b)?

A. Yes, in making the comparison I would note specifically that the left hand portion facing it on Government's Exhibit 5 shows that the alteration or blocking out on that left hand side is not as complete as that which is depicted in Government's Exhibit 5 which is more clearly depicted with arrows in Fabian Tasson's Exhibit. It can be readily and very clearly ascertained that those various parts of the ink that have come through and have been blocked out completely as is depicted in Government's Exhibit 5. In making the comparison by moving a piece of paper around one can readily see that which is clearly and

completely depicted in Government's Exhibit 5(b) shows clearly that this was the same document but it was not altered or modified by blocking out as completely as was done in Government's Exhibit 5, (depicted with arrows on Fabian Tasson's Exhibit BIV). Also in carefully scrutinizing the right hand margin although it certainly appears that there was something underneath this when the photograph was taken, one can readily see that areas that are missing in what is depicted in Goverment's Exhibit 5 and 5(b) are not missing, (as is more clearly depicted in Fabian Tasson's Exhibit 0) which would clearly indicate that this photograph was taken at a different time than that which is depicted in Government's Exhibit 5 and 5(b). In addition to that which is depicted in Government's Exhibit 35 with regard to the error or missing piece that is more near the center of the right hand edge as you are viewing it shows that some of the written material is also and has been removed. At the time the photograph was taken it was in a different condition as an alteration, as if pieces were missing or that a different document was photographed.

Q. With regard to the obvious missing piece, does that leave you with any conclusions?

A. Well it may not leave me with any specific conclusions but I do know that it is possible and often done with regard to the testing of paper for its content, and in many instances to determine its source and in this particular instance it is very possible that that piece of material was taken to cover up or to disguise, if I may use that word, the fact that a piece was taken for testing purposes and the piece was then removed so as to make it appear to be a tear. I would also note that part of what is missing carries with it some inked material which is written in Russian could also be used in a test to determine the age and origin of the ink.

Q. Mr. Tasson, handing you what has been marked for identification purposes as Government's Exhibit 6, have you had an opportunity to examine this document?

A. Yes

Q. What are your findings?

A. Once again with the understanding that that which is depicted in Government's Exhibits 5 and 6 are determined to be one document, being the front and back side and that it was and purports to be opposite sides of the same document or instrument. In taking and examining Government's Exhibit 6 with regard to the back and front side of a document, one can readily see that the little rip that appears on the right hand side of the document more towards the center than the middle of said right hand side and also in taking the perforations and tears and jagged edges that appears on the now left hand margin is completely consistent with what appears in Government's Exhibit 5 and 5(b) leading one to clearly show that it is the opposite side of same document by way of perforations and tears.

Q. With regard to Government's Exhibit 6, would you tell us what your findings and your valuations show with regard to the material contained thereon?

A. Yes, once again I do notice that with regard to either side, there are some differences in what appears to be the printed material. It would almost appear that either side of the card was printed at a different time or a different type was used on either side which is highly suspect as far as my final and ultimate determinations would go as to the validity of this document.

Q. In viewing Government's Exhibit 6, I notice there are two black dots that appear as you are facing said exhibit to the right of the individual depicted thereon's left ear. Can you tell us what this is?

A. Yes, these are what would appear to be probable results of a staple being fastened through this photograph. (As depicted in Fabian Tasson's Exhibit BVI.)

Q. Mr. Tasson, with regard to that, what would be your conclusions based upon your observations of the staple holes?

A. It would be my conclusion that this photograph was fastened to something prior to its being fastened to this document.

Q. Now you indicated that it was fastened or affixed to something prior to being fastened to this document, would you tell us how you concluded this?

A. Yes, the reason I would state that is I have examined the opposite side of this exhibit which is depicted in Government's Exhibit 5, 5(b) and 35 and I can find no evidence of any similar puncture marks as a result of a staple being fastened. I do know based upon what I see here that there is the obvious puncture marks indicating the staple was used to fasten it to something and it was not that which it is affixed to, indicating very graphically that it was fastened to something other than what it is now attached to. (As depicted in Fabian Tasson's Exhibit BVI), referring to Government's Exhibits 6 and 6(b).

Q. Please continue with your findings Mr. Tasson?

A. Yes, thank you. In measuring the seals that are partially on the photograph and partially on the printed and written material I find that the circular portion of the seals are not true, when measuring Northwest to Southeast and East to West, and also measuring from North to South. It is my observation that this has not been caused by sliding or smuding. I have noticed that at the points where the seal ring joins with the photograph there is not a correct joining, the line is out of sync. I have no explanation why this appears but there can be no logical explanation for the circle not being true. (As depicted with arrows on Fabian Tasson's Exhibit BVII).

Q. You are saying that the circle is not true?

A. Yes, what I am saying is that the circle appears in my judgment to be out of sync.

Q. In examining the photograph depicted can you give us your findings?

A. Yes, in the past I have examined what has been identified to me to be German Identification cards and consistently I have noticed that the methodology used in the German photography invariably in the face is slightly turned to the right so as to show a more or less head on view but a clear shot with regard to the left side of the individual and in every instance that I have examined the right ear cannot be seen.

Q. In examining once again Government's Exhibit 6 and also in comparing it to that which is depicted in Government's Exhibit 5. 5(b) and 35, do you have any additional comments?

A. Yes. I believe that the typewriter used throughout and on both sides and that which was depicted in the aforementioned Government's Exhibits is the same typewriter and this can clearly be established by the similar type and also especially as a result of the evaluation and determination from the dirty "E's". Also I note the strange characteristic with regard to the numbers following GROSSE indicating one's height and the 175 cm. The typewriter used probably had a specific character for the number 1. This is quite an unusual number 1 and obviously is a different type of typewriter then what one would ordinarily see in this present day time, where the letter "l" is used as a one.

Q. Have you made any other determinations relative to the typewriter?

A. Yes, based upon the information supplied, it was indicated to me that this Exhibit purports to be a card that was at a training camp in Poland during the War. I would note that the type from this typewriter, other than the dirty "E", appears to be extremely clean and rather well cared for which would render it somewhat suspect to me. One would expect a typewriter at a military establishment with normally male military personnel considerably less clean.

Q. Mr. Tasson, with regard to that which is shown in Government's Exhibit 6, have you made any determination relative to the written material that you see on that card?

A. Yes, what has been described to me to be a combination of German and Russian writing. I find that the writing that is used where it is written in Russian on what has been marked as Government's Exhibits 5 and 5(b) and 35, appears to be done by the same individual. However, directing your attention to Government's Exhibit 6 in the line, the first line under NATIONALITAT, the sixth printed line from the bottom on the left side where it begins abkommandierstram, the fifth printed line from the bottom, the pressure and appearance of

that line is similar to the Russian writing (as is depicted with arrows on Fabian Tasson's Exhibit BVIII). There is an indication when comparing the pressure and coloration of this purported to be German writing with the other known Russian writings. This indication could be more conclusively determined when the original is evaluated.

Q. If you would please, Mr. Tasson, continuing on with regard to that which you have viewed as Government's Exhibit 6, would you point out any other differences you have discovered?

A. Yes. Once again in taking Government's Exhibit 6 on the left hand side of the page just adjacent to partially within the circle next to the photograph displayed thereon, you will notice the Russian word POCUI with an accent mark above it. (As depicted with an arrow in Fabian Tasson's Exhibit 000) and then first referencing it with the Russian word translation that is just below and to the right of the numbers 3.4.20 (as is depicted with arrows in Fabian Tasson's Exhibit 000). There is demonstrated a very similar stroke. And in further considering this fine point, I direct your attention to the opposite side of the page, where it relates to a clothing issuance to the written word that appears directly under the typed in BADENHOSE, (as depicted with arrows in Fabian Tasson's Exhibit BIX). Once again we see an extremely similar accent over that which appears to be an "M". It appears from my evaluation likely that the writer of these three words is the same writer. It is very similar in movement, design and direction to indicate very strongly that the writer of the Russian writing that appears on both sides of this document and the writer of that which appears under the word BADENHOSE, could very likely be the same person based on examining the photographs.

Q. Mr. Tasson, regarding this point, have you made any other comparisons?

A. Yes, with regard to that specific point and redirecting your attention and my focus back to Government's Exhibit 5(b), there are several accent marks which can be compared to the previously commented upon accent marks (as are depicted with

arrows in Fabian Tasson's Exhibit BIX). There are some similarities when considering pressure, depth and thickness, of the various hand writing appearing on these several documents.

Q. Mr. Tasson, would you please continue with your findings?

A. Yes, in addition to that, again directing your attention to Government's Exhibit 6, I also find that the character or number after the word MANTEL although described in a translation is one; is a two, and in addition to that following the word UNTERHEMD and also the word UNDERHOSEN, I believe those characters or numbers are twos. In comparing that which was hand written regarding the heaviness or the weight and pressure of the compared writing, it leaves me with the indication that the writer that placed those aforementioned twos may very well have been placed on the document by the same writer. In addition, and with regard to the word UNTERHEMD and UNDERHOSEN, it is quite obvious that these letters are covered over and that the second numeral placed there is a two, which probably covers a one. In examining this specific area, I can very easily and without magnification see the lead line of the number 1 that appears in every other location wherein a 1 is placed and in this instance the two has been written on top of it, thereby changing it. (As is depicted in Fabian Tasson's Exhibit BX.) I cannot tell when this was done, once again when comparing the heaviness of the twos as they appear on the right hand side of the document, Government's Exhibit 6, I must state that the evidence is strong that it was not done at the time of the original entering of the number ones on Government's Exhibit 6. One other comment I would offer in looking at the signature of that of TEUFEL SS ROTTENFUHRER, one can readily see that the circle formation is there. That does not conform to any other known writing on these various Exhibits.

Q. Mr. Tasson, directing your attention to the photograph that is Government's Exhibit 6 other than what you have already stated, would you care to comment on any other things that you have found?

A. Yes, I have had an opportunity to examine Gideon Epstein's testimony and his testimony relating to the discovery of num-

bers and that which is a blocked out area of the heart area of the individual in the photograph, and also, underneath it there is also a blocked out circular portion. He indicated with low magnification, he was able to discover the 1, the 9 and the 3. I must state that based upon my reading of his testimony and also in determining what is considered by forensic document examiners to be low power magnification, I consider that impossible or highly improbable. When forensic document examiners refer to low magnification, they are generally referring to magnification of the 10th power. In my office I have used magnification on the documents that I have received with regard to this blocked out section to the 400th power of magnification and I have been unable to detect any numbers whatsoever.

Q. Mr. Tasson, directing your attention once again to that testimony relating to his observations, would there be any way to verify what his findings were?

A. Of course there would be. In the event I had the original to observe and evaluate by using a source of magnification and/or infrared process or any other of the various ways of doing this it could be done in the event that anything appeared there.

Q. With regard to that if it can be seen through any means or device or magnification and/or other forensic skills, can the result be established?

A. Yes, when something is observed through these various lighting and magnification processes, it is generally possible to photograph or reproduce these findings and graphically demonstrate this. There certainly are cameras and other facilities that would enable you to present demonstrable evidence on that point.

Q. Mr. Tasson, you mentioned a blocked out circle in Government's Exhibit 6, what is your observation with regard to that?

A. Yes, I believe it is a deliberate blocking out because when comparing it to the button that is seen on the opposite breast pocket one sees that the button is smaller and has the normal shadings that would appear when light is put on a button such as that. In this situation, the circular blocking is larger and

more well defined, however, I do not know what was blocked nor do I know why. It does appear to be deliberately blocked out (as is depicted in Fabian Tasson's Exhibit BXI).

Q. Mr. Tasson, in looking at the photograph again, on Government's Exhibit 6, would you examine the lower left hand corner and tell me what you observed, if anything?

A. Yes, it appears that the edge or the corner of the picture is not a straight line. There appears to be either some bleeding or some seeping over the color, this does not appear to be a true corner.

Q. Mr. Tasson, with regard to the rectangular part and the circular part, do you have an opinion as to what that represents?

A. I do not have an opinion as to what that represents, I can merely state that in my opinion both of these areas, both the rectangular area and the circular blocked out portion were whited out at a time prior to its attachment to that which is depicted as Government's Exhibit 6. (As depicted in Fabian Tasson's Exhibit BXI.)

Q. Mr. Tasson, with regard to what you have mentioned and discussed regarding the blocked out portions and whited out portions and the bleeding and all of the other aspects as to the photograph, would there be any way your observations could be additionally validated?

A. Yes, in conducting an examination of the original, my opinions and my belief would be enhanced or in any event my findings would be made more clear.

Q. Mr. Tasson, in examining that which has been marked for identification purposes as Government's Exhibit 6(b), do you have any observations of that, that would be either consistent or inconsistent with that which you have testified to with regard to Government's Exhibit 6?

A. Basically, the observations that I have made particularly with regard to the areas that I have previously testified to would be basically the same. However, I am convinced that the observation and evaluation of the original would be extremely helpful.

Q. Mr. Tasson, in general would you have any other comments relative to that which is depicted in Government's Exhibit 6 and 6(b)?

A. Yes, there are several other things that I would like to comment upon relative to inquiries that I would have. It is my observation that in looking at the document, one can readily see that there is either a German printed, typed or written word and above that is the Russian writing, in other areas there is German writing and signatures that appear on the document at various places. I noticed that on the right hand side of that which is depicted in 6 and 6(b) one sees what is an apparent translation above most of the items wherein there was an issuance of clothing. However, it is strangely significant that there is no translation over the word BADENHOSE nor is there a number written in. With regard to what I would suspect as to why the word was typed in at the time of issuance why was there no number indicating quantity marked, and indicating the Russian translation (as is depicted in Fabian Tasson's Exhibit ??). Once again, the handwriting below the typed word BADENHOSE, appears to be the same. (As the other Russian writings and, again there is not Russian Translation above this word when compared to the other handwriting lines appearing on these exhibits.)

Q. Mr. Tasson, would you tell us again whether or not you had an opportunity to examine Government's Exhibit 5 and 6 and also 5(b), 35 and 6(b) under the knowledge that that which is depicted are photographs of what purports to be a single document, an identification card. Would you have an opinion as to what the original of this is as it is depicted in these various government examples?

A. Yes, I have an opinion as to what it is not. I do not believe that it is an authentic personal identification card.

Q. Mr. Tasson, can you tell us why you have come to that conclusion?

A. Yes, as I have previously stated in my testimony, I believe that starting with the inconsistencies of the stample holes appearing on one part and not on the opposite side; the deliberate blocking out as previously discussed regarding Government's

Exhibits 5 and 32; and the numerous other previously discussed discrepancies lead me to believe that this document is not a true and proper personal identification card.

Q. Mr. Tasson, you have indicated that you do not believe that it is an identification card, can you tell us what you believe it is?

A. This document would be better characterized by referring to it as a record that is made concerning someone's personnel file, something that would be stored in a filing cabinet. It does not have or give the appearance of a document that would be normally carried on one's person. This is somewhat further verified when considering that the edges are smooth and crisp. Normally an identification that had to be carried about (at this time and place) perhaps under penalty of death would show more marked signs of deterioration than does this document.

Furthermore, the layout of this document is similar to other identification cards that I have viewed. In addition, I would say that on all identification cards that I have seen that are of this era the signature of the individual who is depicted is in close proximity to the photograph and also a date of issuance. None of which appear on this document. In addition to that, I have seen no documents where in someone's identification card serves to indicate what clothing has been issued.

Q. Mr. Tasson, would you please tell me this, based upon this hypothetical, taking that which is depicted in the aforementioned Government's Exhibits 5, 5(b), 35, 6 and 6(b) and if you would please, assume that there are puncture marks on the photograph depicted thereon that do not come through and are not demonstrably noticeable on the reverse side. Also take into consideration that the circles are not true and they are out of sync. Taking into consideration that which purports to be German writing has been added 3-12-48, also if you would, further assume that there is some printing defects that appear throughout wherein the printing is inconsistent with regard to the characters. Assume that the times depicted as being the same were in fact taken at different times as is shown in Government's Exhibits 35 and 5, do you have any opinion as to the authenticity as to the purported documents?

A. Yes

Q. What is your opinion?

A. In my opinion it is not authentic, it appears to me based upon the foregoing that this card has been materially altered thereby removing any authenticity it may have, and in my opinion it is strongly purported to being non-authentic for the purpose it is allegedly described to have been.

/S/ Fabian Tasson *Notary Public*

Fabian Tasson Exhibit "A"

RESUME

Fabian J. Tasson

Certified Examiner of Documents & Handwriting

Academic Background

M.Ed. in Psychology; University of Illinois, 1971

B.S. in Sociology (Criminology); Northern Michigan University, 1963

Additional academic study at:

Western Michigan University
Michigan State University
Sangamon State University
Lincoln Land Community College
University of Illinois (doctoral studies)

Specialized Training

Certified Document Examiner — a three-year program of oral and written testing by the Independent Association of Document Examiners

Certificate of Proficiency Testing (in Forensic Documents), World Association of Document Examiners, Chicago

Certified Graphoanalyst — two years of study and testing by the International Graphoanalysis Society, Inc., Chicago

Certification(s) of Post Graduate Resident Training

Graduate Resident Training
Advanced Resident Training

Resident Training in Professional Graphoanalysis,
IGAS, Chicago

Over 1,000 hours of specialized formal classroom instruction through attendance at seminars sponsored by the World Association of Document Examiners, the Independent Association of Questioned Document Examiners, the International Association for Identification and the Illinois Department of Law Enforcement. This formal training was in conjunction with the Oklahoma City University School of Law, Oklahoma University Law School (Norman, Oklahoma), Southern Methodist University Law School (Dallas, Texas), San Diego University Law School, and Oral Roberts University School of Law (Tulsa, Oklahoma); studying with over 50 different professional practitioners in the fields of Document Examination, Handwriting and Typewriting Examination, Legal Procedure and Courtroom Procedures, and Criminal Justice and Law Enforcement.

Specific Seminars Attended

World Association of Document Examiners, 1973 through 1983
Independent Association of Questionel Document Examiners, 1972, 1973, 1977-81, 1983
Illinois Association for Identification, 1982, 1983
Illinois Department of Law Enforcement in connection with Lincoln Land Community College, Forensic Photography, 1982

Additional 6,000+ hours studying forensic texts, experimenting, conducting research, accumulating current published research in the field, and conferring and consulting with practicing forensic scientists, attorneys, law enforcement officers and instructors in criminal justice programs; including instruction by Paul Osborne, Joseph Thull, Charles Scott and Andre Moenssens.

Experience

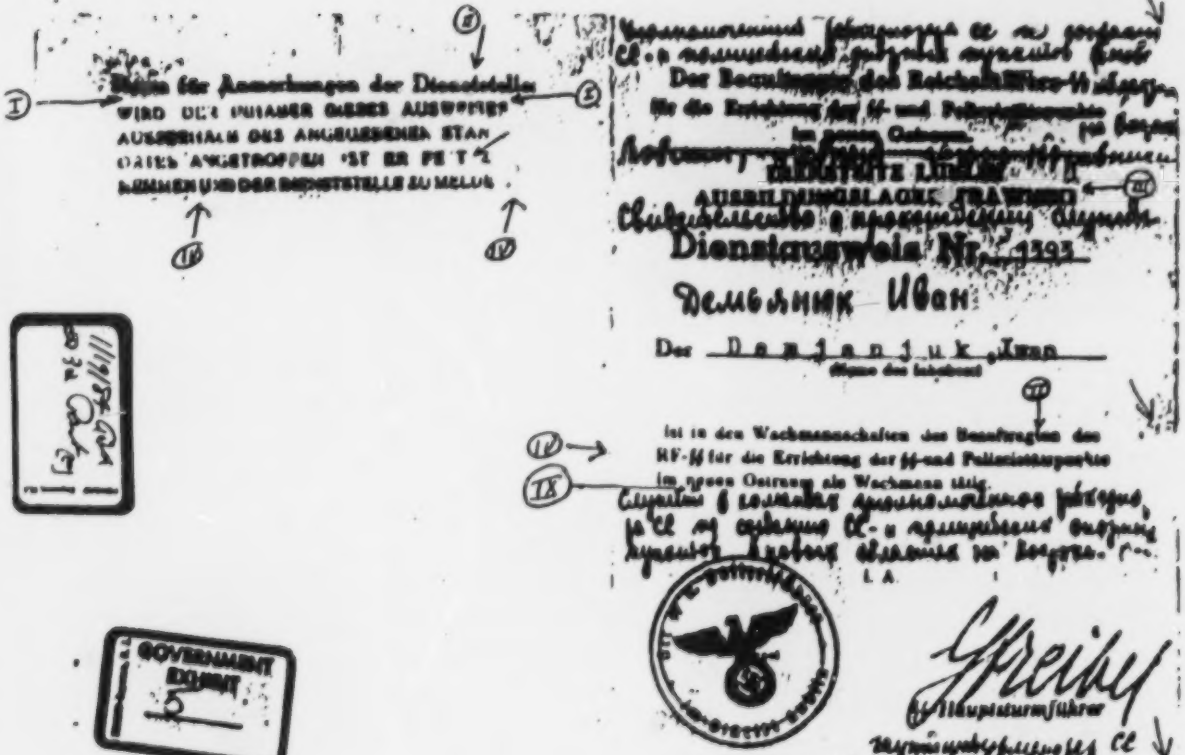
Examined over 25,000 cases.

In 1967, began studying and training in handwriting examination and analysis. By 1971, began a practice in document examination and handwriting analysis. In 1972, in addition to private practice, accepted the position of Document Examiner for the State of Illinois Department of Public Aid. Presently practicing in both the

private and public sectors; having had the opportunity to examine over 25,000 document cases providing experience in a wide range of types of cases (signatures, typewriting, altered checks, obliterations, substitutions, over writings, etc.). Cases range from a single check or contract to multi-million dollar frauds by vendors servicing the Illinois Department of Public Aid. Work on a continuing basis with the U.S. Attorney General, State's Attorney, Unemployment Security Commission, (Illinois) Employees' Retirement System, State Treasurer, State Comptroller, U.S. Secret Service, Illinois Department of Law Enforcement as well as a clientele in the private sector.

Court qualified to give expert testimony in over 30 cases (state courts - Illinois), administrative hearings of medical, clinic, vendor, employee and client fraud cases, State of Illinois, as well as court cases involving cases in private practice (Illinois courts).

Mr. Tasson's Working Exhibits Follow:


Raum für Anmerkungen der Dienststelle
WIRD DER INHABER DIESES AUSWEISES
AUSSERHALB DES ANGEGEBENEN STAN
ORTES ANGETROFFEN IST ER FE T
NAMMEN UND DER DIENSTSTELLE ZU MELDE
Dienstausweis Nr. 1393
Демьянюк Иван
Der Demjanjuk, Ivan
ist in den Wachmannschaften des Beauftragten des
RF-SS für die Errichtung der SS- und Polizeistützpunkte
im neuen Ostraum als Wachmann tätig.
LA
GOVERNMENT EXHIBIT
5

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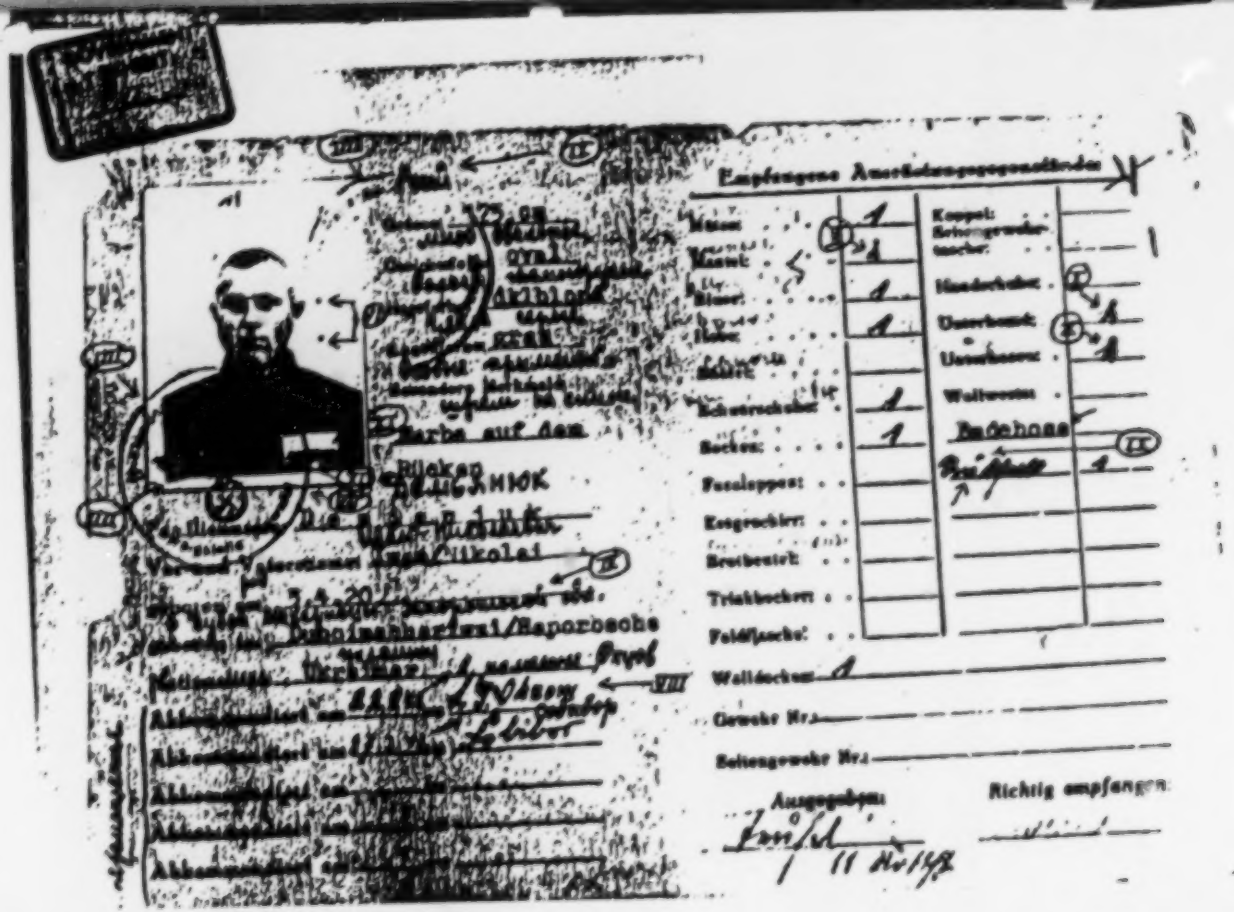

Empfangene Ausrüstungsgegenstände

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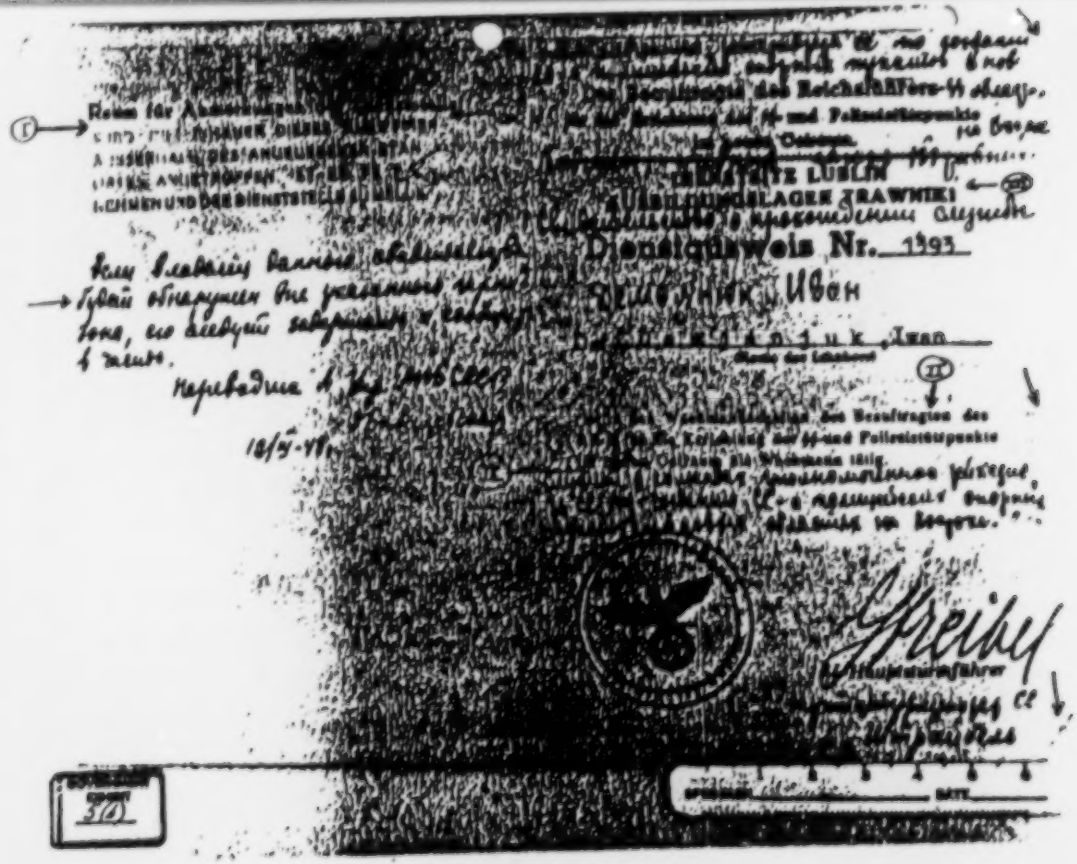
Mantel	1	Handschuhe	
Bluse	1	Unterhemd	1
Hose	1	Unterhose	1
Mütze		Wollweste	
Schutzmacher	1	Rucksack	
Becher	1	Brotbeutel	1
Essgeschirr			
Brotbeutel			
Trinkbecher			
Feldflasche			
Wolldecken	1		

Gewehr Nr.

Seitengewehr Nr.

Ausgegeben:

Richtig empfangen



Dienstausweis Nr. 1393

Иван

Freiber

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Der Beauftragte des Reichsführers-SS
DISTRIKT LUBLIN
AUSBILDUNGSLAGER TRAWNIKI
Dienstausweis Nr. 1393
Демьянюк Иван
Der Demjanjuk Iwan
EX 35
Feb 1/15/84

Gideon Epstein
By Mr. Horrigan

Q. Showing you Government's Exhibit 14, can you identify it?

A. Yes, I can. This is the court illustration I prepared for the purpose of demonstration.

Q. And what signature does it contain, sir?

A. On Line 1 we have the questioned Streibel signature which appears on Government's Exhibit 5, the front of the I.D. card.

On lines 2 and 3 we have the known Streibel signature which appear on Government's Exhibits 7 and 8 which are the known sample writings of Streibel.

Q. Using Government's Exhibit 14 would you please

Q. What were those conclusions?

A. My conclusion was, as it involves the reverse of this document or Government's Exhibit 6, as it involves this particular document, there were no alterations, substitutions or interlineations on that document;

That the text, I feel the text that appears on there now is the text that was put on there at the time this document was prepared.

Q. Showing you Government's Exhibit No. 14-I.

Can you identify it, please?

A. Yes. Government Exhibit 14-I is Government's Exhibit No. 5, which is the front portion of the identity card and is the chart that I prepared for the purpose of illustrating this particular conclusion.

Q. Using Government's Exhibit 14-I, would you show the Court your observations?

A. Again, in this particular exhibit we subjected it to the same type of examination that we did to the back of this exhibit, and that is, there was a careful study made of the text appearing throughout and especially we concentrated on the name that appears on the identity block which is right here.

A. My conclusion, after completing the tests on this document, was that there are no alterations, substitutions or interlineations on this document, and that the name that presently is typed on that document is the name that appeared on that document at the time it was first prepared.

Q. You mean that there were no alterations, interlineations or substitutions in Government's Exhibit No. 6, is that correct?

A. That's correct.

Q. Would you take the stand please.

Excuse me. This was Government's Exhibit No. 5?

A. Five.

Q. Thank you.

The fact that Government's Exhibits 5 and 6 were photographs, did that hamper your investigation in any way?

A. It would have been preferable to have the original documents, for no other reason than to be able to demonstrate them clearly to the Court. Because they were photocopies, photographs, there were certain limitations on what you can do with these documents in the manner of presentation.

Q. How does that Russian ink writing, handwriting, compare with the other handwriting on other parts of the original document?

A. My comparison of that writing against the other purple ink writing appearing throughout the rest of the document revealed that it was, in all likelihood, done by the same person.

Q. On your examination at the Russian embassy, did you conduct any other tests on the original of Government's Exhibits 5 and 6?

A. Yes.

My examination also involved a low power examination, using low power magnification of the signatures that I previously testified to, that is the Streibel signature appearing on the front, and the Teufel signature appearing on the inside portion.

My purpose in that examination was to study, again, the line quality of the writing to see whether there was anything I could add to the previously — previous examination that I conducted.

In addition to that, I studied the fiber of the paper stock of this particular document as well as the backgrounds and the printing, the stamp impresion in the photographic placement of the stamp in relation to the photograph, these things were all studied at that time.

Q. And as a result of these studies and tests you conducted, did you reach any conclusions?

A. As a result of my examination on the 27th of the original document, I was only able to confirm my previously reached conclusions.

Q. Which were, please?

A. That there were no alterations, substitutions, erradications on these documents, on this document, and that the Teufel and Streibel signatures are very fluently and graphically written in their national handwriting and they were done by the person whose known handwriting I had for comparison.

Q. Directing your attention to the side of the original of the photograph which corresponds to Government's Exhibit 6, did you examine this photograph?

A. Yes.

You are referring to the signature in the lower right-hand corner? Oh, the photograph?

Yes, I have.

Q. Did you examine what appears to be a small white rectangle on the chest of the subject in the photo?

A. Yes, I did.

Q. What, if anything, did your examination reveal?

A. Examination of the small rectangle portion on the chest of the subject in the original document by the use of light control and low-power magnification, I was able to restore or make legible three of the four numbers that appear on the label.

Q. And what were those numbers, please?

A. I was able to restore the number one. The second digit was too faint. I couldn't make that one out. The third digit was 9 and the fourth digit was 3.

Q. Would you turn over the original to the side corresponding to Government Exhibit 5?

(Witness complies.)

Q. Do you see an identity card number there?

A. Yes, I do.

Q. What is that number?

Affidavit

State of New York)
County of Erie) SS
City of Buffalo)

MARK J. O'CONNOR, ESQ., being duly sworn, deposes and says:

1. I am the Attorney for MR. JOHN DEMJANJUK, a resident of Seven Hills, Ohio. The Office of Special Investigations of the United States Department of Justice (OSI) is seeking to deport MR. DEMJANJUK to the U.S.S.R., while concurrently appearing with the United States Attorney, on behalf of the State of Israel, requesting extradition of MR. DEMJANJUK for a War Crimes Trial in East Jerusalem.

2. I make this Affidavit in support of Respondent's numerous Motions to Suppress the Evidence offered by the OSI for admission into the Deportation Record; in support of Respondent's Motion to Remand the Israeli Request for Extradition of MR. DEMJANJUK back to the United States Department of State for lack of jurisdiction; in support of Respondent's new Motion for Relief from the Judgment of the United States District Court Chief Judge which revoked and vacated MR. DEMJANJUK's Citizenship Order; and in support of the Appeals from the Orders of Chief Judge FRANK J. BATTISTI in this case, currently pending before the United States Court of Appeals, Sixth Circuit.

3. On Thursday, April 27th, 1984, Affiant made a courtesy visit to the Embassy of the U.S.S.R. in Washington, D.C. The purpose of this visit was to ascertain the reason that Government of the Union of Soviet Socialist Republics had altered the key evidence used against my client, JOHN DEMJANJUK, during the Denaturalization Hearing held before Chief Judge FRANK J. BATTISTI, in 1981. (*United States* v. *Demjanjuk*, 518 Fed. Supp. 1362).

4. The Embassy First Secretary and Consul, VALERIY G. KUBANOV, reviewed the formal statement of the case prepared by the Affiant prior to our meeting in the Embassy (Exhibit A). MR. KUBANOV informed your Affiant that he had been thoroughly briefed on the DEMJANJUK Matter and was prepared to state the position of the U.S.S.R. in the case.

5. The First Secretary then willingly divulged that the Soviet Government had intentionally altered the I.D. Card evidence, before transmitting it through diplomatic channels to the Office of Special Investigations. The reason given for falsifying the document was that the information "blocked out" was of no concern either to the United States Court or to the Defense Counsel. The said information consisted of Russian writing indicating that the Card was in the possession of the Military Division (MVD) of the Soviet Secret Police (NKVD-KGB) in 1948.

6. The representation made by the OSI at the DEMJANJUK Denaturalization Hearing was that the I.D. Card had been in a Soviet Archive since the end of World War II and that the chain of custody for the said Soviet produced document was supported by that Archive's Certification of Authenticity.

7. MR. KUBANOV could not understand why the alteration to the Soviet evidence would ever be questioned by the current Defense Counsel, presumably since the OSI and Chief Judge FRANK J. BATTISTI had never questioned the Soviets' conduct. The information concealed on the Russian supplied evidence, after all, pertained to the internal affairs of the U.S.S.R.

8. The Representative of the Soviet Government indicated that this official explanation of the alteration to the "evidence" used against a United States Citizen would be put in writing by the responsible authorities in the U.S.S.R. and transmitted to the Affiant.

9. Following the meeting with the Soviet Representative, Affiant immediately notified the Office of the Director of the Federal Bureau of Investigations of the meeting with MR. KUBANOV and the information provided by him.

10. The correspondence with MR. WEBSTER's Office are made a part of this Affidavit and are marked Exhibit B and Exhibit C, respectively.

/S/ MARK J. O'CONNOR

Sworn to before me this
9th day of May, 1984.

/S/ JOSEPH J. HAUSBECK
Notary Public

OFFICIAL

TRANSLATION

Certified By

THE NATIONALITIES SERVICES CENTER

1001 Huron Road, N.E., Cleveland, Ohio 44115 — USA

TESTIMONY

I, Eugenia Samuel, born Podlés (maiden name) March 28, 1927 in Wólka, Sokolóv, Podlaski county using identification document No. BP 8642499, issued by KPMO (Komenda Powiatowa Milicji Obywatelskiej) in Sokolóv Podlaski on May 12, 1967, testify that in Summer 1943 I was arrested and brought to the death camp of Treblinka as a Jewess, since there were many Jewish escapees from the camp sheltered by Polish peasants which was considered a crime punishable by death as, for instance, the whole family of Samsel, exterminated by the Germans for sheltering Jews. Fortunately, however, the family to which I came from Warsaw was courageous enough to testify that I am not Jewish, thus causing my release from tortures which left traces on my body up to this time in forms of earlobes ripped up and piece of my flesh ripped out by special shoes with protruding nails. During my staying in the death camp of Treblinka I knew an Ukrainian guard of violent temper, known as the brutal Ivan, a powerful man, with bushy hair and protruding eyes. I didn't see him at the court case in Krasnodar, USSR, where I was called, with Józef Wujek, as a witness in 1960 (April 6 to April 19) and I don't see any similarity between him and the photograph attached to a card made to the name of Demjanjuk which was shown to me.

/S/ EUGENIA SAMUEL

Warsaw, January 23, 1984

Sworn at the American Embassy in Warsaw January 23, 1984

I certify hereby that the foregoing is to the best of my knowledge and belief a true and correct translation of the original document in the Polish language.

/S/
Translator

State of Ohio)
) SS
Cuyahoga County)

Sworn to and subscribed in my presence this 6 day of February 1984 at Cleveland, Ohio.

/S/ LARISA ZAKIS
Notary Public

OFFICIAL

TRANSLATION

Certified By

THE NATIONALITIES SERVICES CENTER

1001 Huron Road, N.E., Cleveland, Ohio 44115 — USA

Desposition of Stanislaw Swistek in Poniatowa

I, Stanislaw Swistek, born October 28, 1902, residing presently in Poniatowa, 3 Praga street, and using the identification document issued by the MO in Wegrow on June 29, 1964, make the following deposition: During the German occupation in Poland, 1939-44, both my brothers, Wladyslaw and Waclaw Swistek, were deported by the Germans to the Auschwitz concentration camp where they perished. I remained alone on our farm covering barely a few acres. Repeatedly, I was forced to use my horses in performing various tasks in both Treblinka camps. During my trips, I noticed an Ukrainian guard by the name of Ivan, a tall, powerful fellow whose violent disposition frightened even other Ukrainian guardsmen. Sometimes, he used to come to Poniatowa for bimber/illegally produced vodka/and women. I never dared to address him in person, but I knew that he was speaking some Ukrainian, but mostly German. On August 2, 1943, during the revolt of Jewish inmates which took place in the afternoon, we saw columns of smoke and fire raising over Treblinka 2. Shortly afterwards, some Jewish prisoners were running through our village, receiving help from our farmers. They were followed by the German and Ukrainian guardsmen among whom I didn't see Ivan. I have heard that he was killed during the revolt by the prisoners. Several times I was forced to come with my carriage and horses to work at the liquidation of the camp which followed shortly.

/S/ STANISLAW SWISTEK

I certify hereby that the foregoing is to the best of my knowledge and belief a true and correct translation of the original document in the Polish language.

/S/
Translator

State of Ohio)
) SS
Cuyahoga County)

Sworn to and subscribed in my presence this 6 day of February 1984 at Cleveland, Ohio.

/S/ LARISA ZAKIS
Notary Public

Received
IN & S D D
Chicago, Ill.
Sep. 29 4:17 PM, '80

Statement re Liudas Kairys

Commonwealth of Australia)
State of Victoria)
City of Melbourne) SS
Consulate General of the)
United States of America)

I, Chaim Sztajer, am a resident of 3/200 Glen Eira Road / Elsternwick, Victoria 3185 / Australia. I am a survivor of Treblinka Concentration Camp.

I recognize the person shown in a photograph published in the 22 August issue of the *Jewish News*, Melbourne. I believe that the person identified in the caption as Liudas Kairys is identical to the man known as "Ivan" who worked as a guard at Treblinka.

During my eleven months at Treblinka, I was in daily contact with Ivan. My main duty was to carry corpses from the gas chamber to open graves. I saw Ivan commit crimes, including murder and preparation of the gas chamber.

I am prepared to testify to this effect in the case of Liudas Kairys vs. the Department of Justice.

/S/ CHAIM SZTAJER

Subscribed and sworn before me this 2nd day of September 1980 at Melbourne, Australia.

/S/ BRUCE L. ROSENBERG
Vice Consul

Exhibit B (English)

Affidavit

I, Heinrich Schaefer, residing at 3527 Calden, Harter Weg 24, hereby declare under oath:

1. I had already issued an affidavit before the U.S. Consul about my service in the training camp Trawniki/Poland during World War II.

2. The training camp Trawniki served for training of guards for agricultural estates in Poland, which were operated by the German ethnics. It was the task of these agriculture estates to supply provisions under conditions of war. It was also the duty of the guards to guard railroad bridges and warehouses in which provisions were stored. Some of them were also assigned to duty in the concentration camps in the area of Publin (Poland).

3. I was in that part of the administration in Trawniki, whose duty it was to identify and check the Ukrainians that were allocated to the training battalion. Moreover, finance - and general camp administration belonged in this area.

4. In the years of my continuous duty in the Trawniki camp, between 1941 and 1944, there never was issued an identification paper to a guard, which at the same time contained a list of objects which were received by him. The list of equipment was a special document, which was kept at the camp administration where I worked.

5. The list of equipment for guards always contained the carbine which was issued to the guard and its number. The ammunition for this weapon was handed out where the guard was appointed. It is completely unimaginable that there was no carbine given to a guard, as that was, to a certain extent, his right arm, without which he could not perform his duty.

6. The copy of the identification card, which was shown to me by the representative of the U.S. Government contains, in

addition to the list of equipment, also a reference to an official transfer to an agriculture estate in Okzow, as also to Sobitor. This document cannot have been issued in Trawniki.

7. Official transfers were never recorded on identification documents. Such information was kept in the records of the respective competent place of command. Also, the date of issuance had to be on every identification card, otherwise such a paper was automatically invalid.

8. Every guard in Trawniki, including myself, had an identification paper on which his name appeared only once. A card such as the one which was shown to me and which shows the name Iwan Demjanjuk twice, was never issued by me. I know of no such cards.

9. During my previous questioning before the U.S. Consul, I was never asked my opinion about the authenticity of the "Demjanjuk card". I did declare, that I never saw a card like that one during my service in Trawniki and assumed that the affidavit was sufficient.

/S/ HEINRICH SCHAEFER

The signature of Heinrich Schaefer, residing at 3527 Calden, Harter Weg 24, is herewith officially authenticated.

Calden, 9/13/1983

Stamp of city of Calden Signature

State of New York)
County of Erie) SS .
City of Buffalo)

I hereby certify that the foregoing is a true and correct translation from German into English language.

/S/ EDITH HOROWITZ
Translator

Subscribed and sworn to before me this 17th day of October 1983.

/S/ CARMEN D. SUFANO
Notary Public

OFFICIAL
TRANSLATION
Certified By
THE NATIONALITIES SERVICES CENTER
1001 Huron Road, N.E., Cleveland, Ohio 44115 — USA

Affidavit

I, Otto Horn, residing in Berlin (West) 61, Yorckstrasse 66, herewith declare the following under oath:

1) That I give this declaration under oath about my observations in a concentration camp, which was called Treblinka, in the years 1942 and 1943, as a supplement to my declaration under oath which I gave in 1980 before the American Consulate in Berlin.

2) This declaration under oath shall explain my previous statement, especially regarding a Ukrainian guard in this camp.

3) Before I gave my declaration under oath in 1980, I was questioned twice by the legal representative of the U.S. Government if I could identify a Ukrainian who was at that time accused in the United States.

4) The representative of the Government of the United States showed me eight pictures, I said that one of the persons pictured reminded me of a Ukrainian whom I saw in Treblinka in the company of a German by the name of Schmitt. Schmitt was the man who was constantly near that area of the concentration camp of Treblinka, where the annihilation took place.

5) I personally never attended such an annihilation and never participated in activities such as hair cutting, the breaking

out of gold teeth or the destruction of corpses; I also never supervised such activities.

6) From about 50 meters I could observe people enter a building in front of which Schmitt stood. This building stood on an isolated terrain where the annihilation occurred. That part of the terrain was screened by barbed wire into which branches full of leaves were weaved to block the view from the outside.

7) Schmitt had a Ukrainian guard, who served in the camp, as an assistant. This man was called Iwan.

8) Germans generally address all Russians and Ukrainians as Iwan.

9) I never spoke to that man, not alone, or when he was in company of Schmitt. I only remember that he was a large man.

10) When I was shown the pictures, I chose the man that appeared the largest to me without remembering his facial features or recognizing other characteristics when the American showed me the pictures. The men on the other seven pictures appeared smaller than the man on the picture to which I eventually pointed.

11) I was never involved in any way with the annihilations of Treblinka. I was against it.

12) I don't even know why I was the one to receive the order to serve in Treblinka.

13) I have never in all my tour of duty in Treblinka heard that a Ukrainian Iwan was called "Iwan the Terrible".

/S/ OTTO HORN

Signed and sworn in my presence on 19. August 1983.

Seal

/S/ WILLIAM N. HARLOW
Vice Consul of the
United States of America

Gerard F. Charig, being duly sworn, deposes and says:

I am a senior trial attorney of the Civil Division, United States Department of Justice, and am assigned to Europe, with offices at the American Consulate General Munich, Federal Republic of Germany.

In accordance with a request of Feb 2, 1984 of Mr. Bruce Einhorn, Trial Attorney, Office of Special Investigations, Criminal Division, US Department of Justice, I contacted by telephone two German nationals, Mr. Heinrich Schäfer of Calden, District of Hofgeismar, Federal Republic of Germany, and Mr. Otto Horn of 66 Yorkstrasse, West-Berlin.

Mr. Schäfer stated that about September 1983 he had been visited by Mr. Brentar, an American national, at his, Schäfer's residence. Brentar spoke with him of Mr. John Demjanjuk and of the deposition Mr. Schäfer had given at the American Consulate General Frankfurt, Germany, on Feb 29, 1980. Mr. Brentar requested that Mr. Schäfer travel to the United States in order to testify there in connection with proceedings involving Mr. Demjanjuk. Mr. Schäfer refused such request or invitation. When asked by me Mr. Schäfer stated that he had not been requested or invited to testify by deposition either at an American Consulate or any place other than the United States. He added that, if he were asked, he would refuse to testify again in this matter, whether by deposition or in any other way.

I also called Mr. Otto Horn at his home in Berlin on Feb 3, 1984. Mr. Horn well remembered the deposition he gave at the American Consulate General Berlin on or about February 26, 1980. He stated unqualifiedly that he would not proceed to the United States to testify in this matter and that he would not testify in Berlin or elsewhere either.

/S/ GERARD F. CHARIG

General Republic of Germany)
Bavaria)
of Munich) SS
Consulate General of the)
United States of America)

Subscribed and sworn to before me this ninth day of March 1984.

/S/ JOSEPH O. STREICHER
Consul of the United States
of America

Certification of Translation

Pursuant to 28 U.S.C. § 1746, I certify under the penalty of perjury that the attached document in English, Note of Ministry of Foreign Affairs of the USSR, No. 107/ossha, dated December 27, 1983 at Moscow is a true and accurate translation of the designated portions of the attached document in Russian, Ministerstvo Inostrannykh Del Soyuza Sovetskikh Sotsialistickeskihh Respublik, No. 107/ossha, Moskva, 37 dekabrya 1983 goda to the best of my knowledge and belief.

Executed this 16th day
of January, 1984.

/S/ PATRICK J. TREANOR
Historian
U.S. Dept. of Justice
Office of Special Investigations

[seal]

Ministry of Foreign Affairs of the USSR

No. 107/ossha

The Ministry of Foreign Affairs of the Union of the Soviet Socialist Republics, referring to the Embassy of the United States of America's note No. 2188 of December 2 of this year, reports that according to the reconfirmed information of the Procuracy of the USSR, Ivan Nikolayevich Dem'yanyuk, born April 3, 1920, in the village of Dubovyye Makharintsy, Samgorod (now Kazatin) Rayon, Vinnitsa Oblast, has not been held answerable and has not been convicted in the Soviet Union for war crimes committed by him during the years of the Second World War.

Moscow, December 27, 1983

[seal]
Ministry of Foreign Affairs of
the USSR *1*

TO THE EMBASSY OF THE
UNITED STATES OF AMERICA, MOSCOW

WARSAW, August 31, 1979
Aleje Ujazdowskie II.

Ministry of Justice
Main Commission
Investigating Nazi Crimes
in Poland

I.dz. Zh. III/4410/85/78

Mr. Martin Mendelsohn
US. Department of Justice
Office of Special Investigations
Criminal Division
1375 K Street, N.W., 2nd Floor
P.O. Box 28603
Washington, D.C. 20005

Dear Sir!

With reference to your letter of July 27, 1979, 146-2-47, the Main Commission Investigating Nazi Crimes in Poland wishes to inform you that we do not have any data concerning Iwan Demjanjuk, Liudas Kairys and Vladas Zajanckauskas.

Enclosed we are forwarding to you information concerning Trawnik — it is a copy of an article from the "Hitler Camps on the Polish Soil 1939-1945", Warsaw 1979, p.523 — as well as the XXVI-th volume of the Bulletin of the Main Commission Investigating Nazi Crimes in Poland, Warsaw, 1975, with the article about Treblinka by Stanislaw Wojtczak.

Respectfully

Director
Professor Dr. Czeslaw Pilichowski

OFFICIAL
TRANSLATION
Certified By
THE NATIONALITIES SERVICES CENTER
1001 Huron Road, N.E., Cleveland, Ohio 44115 — USA

Mission of the United States of America

BDC/575/83/jg

Berlin Document Center

APO New York 09742
1. September 1983

St. Raphael Association
Attn: Mr. Jerome A. Brentar
911 East 185th Street
Cleveland, Ohio 44119

Dear Mr. Brentar:

In reference to your letter of April 2, 1983, which arrived here on August 9, 1983, we inform you that there are no documents about Iwan DEMJANJUK in existence in the Berlin Document Center.

Very truly yours,

DANIEL P. SIMON
Director
Berlin Document Center

Enclosures returned

I certify hereby that the foregoing is to the best of my knowledge and belief a true and correct translation of the original document in the German language.

/S/ INGRID ROETHEL
Translator

State of Ohio)
) SS
Cuyahoga County)

Sworn to and subscribed in my presence this 26th day of October 1983 at Cleveland.

/S/ LUCRETIA L. STOICA
Notary Public

Punishment Will Come

By O. MATVIYCHUK

According to American press, the Department of Justice of the United States brought up a criminal case against war criminal Ivan Demyaniuk, who after the war found refuge in the city of Cleveland and avoided just punishment for his murderous services which he obligingly offered to the Nazis.

When the Nazi Germany treacherously invaded the Soviet Union, Ivan Demyaniuk, the native of the village of Dubovi Makharintsi in Kozyatin District, Vinnitsya Region, deserted to the enemy and betrayed his Motherland. Incidentally, the traitor's father Mykola Demyaniuk also chose the path of treachery and served as a policeman during the Nazi occupation.

Having voluntarily yielded himself prisoner, Demyaniuk Jr. found himself in a camp, but not in a concentration camp for Soviet prisoners of war. He was sent to a camp where Nazis trained commandos for SS forces and security police. Among German documents captured by the Soviet Army, there is a "Certificate No. 1393" which was issued by Trawniki training camp in Poland to Ivan Demyaniuk, born in 1920, bearing his photograph and certifying that Ivan Demyaniuk as from September 22, 1942, was engaged in active duty at the town of Oktsow and then, starting from March 1943, at the death camp of Sobibor in Poland.

His "colleague" H. Danylchenko said at the preliminary inquest: "I first met and got acquainted with Ivan Demyaniuk in March 1943 at the death camp Sobibor (Poland) where he served as an SS guard. He was wearing SS uniform and war armed accordingly.

"Demyaniuk, as an SS guard took part in mass extermination of Jews at the Sobibor death camp, watched them to prevent their escape and escorted them to gas chambers.

"In spring 1944, Ivan Demyaniuk and I were sent to Flossenburg and then to Regensburg (Germany) where again he was a guard at the concentration camps for Soviet prisoners and people of other nationalities and escorted them to places where they were forced to work."

To the last days of the war, Ivan Demyaniuk served Nazis, and, after they were totally routed, fled overseas. At present, residents

of the town of Parma in the United States know Mr. Demyaniuk as an ordinary auto inspector. But they probably don't know when they meet him that they shake hands with a murderer.

These Nazi documents exposing the war criminal never appeared in press before.

— *"Soviet Way"*, October, 1977

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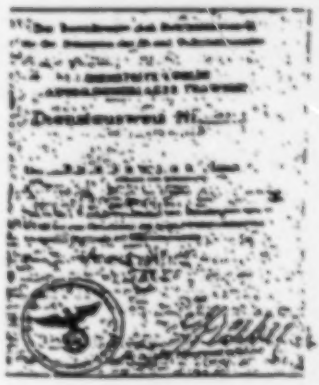

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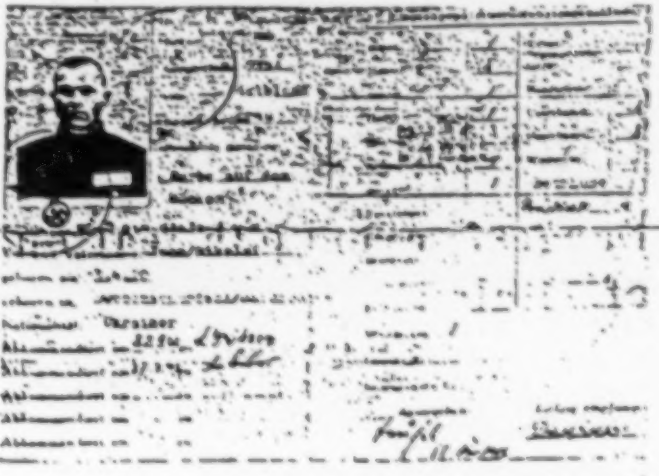

Plate

Plates

Petitioner in Russian Army Uniform
(Petitioner's District Court Motion Exhibit)

PHOTOALBUM #1

Addendum to the protocol of the identification for September 11, 1980

(PHOTOS)

#1 #2 #3

Subject of photograph: Males in military uniform with headgear

Witness: (signed) SAVENKO

State Witnesses: (signed) KOVALEVA

(signed) KALITA

Senior Assistant Procurator
of the Vinnitsa oblast (signed) V.L. Podrutsky

Soviet Photo Album, Petitioner at right, with Translation (Petitioner's District Court Motion Exhibit)

ФОТОТАБЛИЦА № I

Приложение к протоколу опознания от "11" сентября 1980 г.

№ I

№ 2

№ 3

Объект съемки: лица мужского пола в военной форме в головных уборах.

Свидетель: _____ САВЕНКО

Понятые: _____ КОВАЛЕВА

_____ КАЛИТА

Старший помощник прокурора
Винницкой области _____ В.Л. Голоушкий

PHOTOALBUM #2

Addendum to the protocol of the identification for September 11, 1980

(PHOTOS)

#1 #2 #3

Subject of photograph: Males in civilian clothes without headgear

Witness: (signed) SAVENKO

State Witnesses: (signed) SOVALEVA

(signed) KALITA

Senior Assistant Procurator
of the Vinnitsa oblast (signed) V.L. Podrutsky

Soviet Photo Album, Petitioner purportedly at right, with Translation
(Petitioner's District Court Motion Exhibit)

ФОТОТАБЛИЦА № 2

Приложение к протоколу опознания от "II" сентября 1980 г.

№ I

№ 2

№ 3

Объект съемки: лица мужского пола в гражданской одежде без головных уборов.

Свидетель: _____ САВЕНКО

Понятые: _____ КОВАЛЕВА

_____ КАЛИТА

Старший помощник прокурора
Ивано-Франковской области _____ Т.Л.Подсушная

PHOTOALBUM #3

Addendum to the protocol of the identification for September 11, 1980

(PHOTOS)

#1 #2 #3

Subject of photograph: Males in civilian clothes without headgear

Witness: (signed) SAVENKO

State Witnesses: (signed) SOVALEVA

(signed) KALITA

Senior Assistant Procurator of the Vinnitsa oblast (signed) V.L. Podrutsky

Soviet Photo Album, Petitioner at center, with Translation (Petitioner's District Court Motion Exhibit)

ФОТОТАБЛИЦА № 3

Приложение к протоколу опознания от "11" сентября 1980 г.

№ 1 № 2 № 3

Объект съемки: лица мужского пола в гражданской одежде без головных уборов.

Свидетель: САВЕНКО

Понятые: КОВАЛЕВА

КАЛИТА

Старший помощник прокурора
Ленинской области В.П.Погорелый

Israeli Police Photospread
(Petitioner's District Court Motion Exhibit)

Israeli Photospread showing Kairys
(Petitioner's District Court Exhibit)

Name: SCHÄFER

Vornamen: Heinrich

Geburtstag: 8. August 1918

Geburtsort: Hussenbach / ASSR d. WD.

Staat: UdSSR (RSFSR)

Beruf: Büroangestellter

Familienstand: ledig

Bisherige Staatsangehörigkeit: UdSSR

Bisheriger Wohnort: Hussenbach / ASSR d. WD.

Kinder

Name	Geburtstag und Geburtsort	Geschlecht

Personenbeschreibung

1,73 m

schlank

Gesichtsfarbe: graumeliert

Augenfarbe: grau

Besondere Kennzeichen: keine

Heinrich Schäfer

(Unterschrift des Inhabers)

Berlin, den 19. Februar 44

Der Chef der Sicherheitspolizei und des SD

Einwandererzentralstelle

(Dienstliche Stellung)

Palewsky

(Unterschrift des ausstellenden Beamten)

– EXHIBIT Y

Heinrich Schaefer's Nazi Identification Card
(Petitioner's District Court Exhibit)

Personalbogen Nr. 1628

Name: Kairys

Vorname: Ludwig Vatersname: Peter

geb. am: 24.12.1920. in: Luiliones

Heimatanschrift: Luiliones Kr. Sweinziane Litau

Nationalität: Litauer

Staatsangehörigkeit: UdSSR

Beruf: Gärtner

Stand: ledig Kinderzahl: o/o

Rechter Daumen

in Traveiki seit: 17.6.42

Mädchenname der Frau: —

Mädchenname der Mutter: Maria geb. Moshelyte

Militärdienst — Waffengattung: Artyllerie

Letzter Dienstgrad: Soldat Dienstzeit: 15.3.1940–22.6.41.

Bemerkungen: —

Sprachkenntnisse: Lettisch, russisch, polnisch

Besondere Fähigkeiten: —

Größe: 182 cm

Gesichtsform: oval

Haarfarbe: dunkelblond

Augenfarbe: grau

Besondere Merkmale: —

Obige Angaben wurden bejaht mit:

1.)

2.)

3.)

— auf Grund eigener Angaben aufgenommen

Aufgenommen durch: Kohr, Wm. d. Sch. d. Sg.

Unterschrift:

Dienstgrad:

EXHIBIT A(1)

Kairys Nazi Identification Card
(Petitioner's District Court Exhibit)